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BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF MEETING PROCEEDINGS

VOLUME TWO

September 20, 2012

8:00 a.m.

Mabry Hall - Jerry Apodaca Education Building

300 Don Gaspar

Santa Fe, New Mexico

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A P P E A R A N C E S

COMMISSIONERS:

- MR. M. ANDREW GARRISON, Chair
- MS. CAROLYN SHEARMAN, Vice Chair
- MR. EUGENE GANT, Secretary
- MS. CARLA LOPEZ
- MS. MILLIE POGNA
- MR. VINCE BERGMAN
- MR. MICHAEL CANFIELD
- MR. GILBERT PERALTA

STAFF:

- MS. KELLY CALLAHAN, Director-Charter Schools Division
- MS. BEVERLY FRIEDMAN, PED Liaison to the PEC
- MS. CHELLEY CHERRIN
- MS. RACHEL STOFICK
- MR. BRAD RICHARDSON
- MS. KAREN EHLERT

ALSO PRESENT:

- MR. RAMON VIGIL, PEC Counsel

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1 September 20, 2012

2 (Hearing reconvenes, 8:00 a.m.)

3 VICE CHAIR SHEARMAN: I call back into  
4 session this regularly scheduled meeting of the  
5 Public Education Commission which was recessed  
6 yesterday afternoon to reconvene this morning.  
7 Chairman Garrison has let us know he'll be a few  
8 minutes late this morning, so in order to keep on  
9 time we're going to proceed. First I'd like to ask  
10 Secretary Gant to call the roll, please.

11 COMMISSIONER GANT: Commissioner Peralta.

12 COMMISSIONER PERALTA: Here.

13 COMMISSIONER GANT: Commissioner Canfield.

14 COMMISSIONER CANFIELD: Here.

15 COMMISSIONER GANT: Commissioner Bergman.

16 COMMISSIONER BERGMAN: Here.

17 COMMISSIONER GANT: Commissioner Lopez.

18 COMMISSIONER LOPEZ: Here.

19 THE CHAIR: Commissioner Carr has not  
20 arrived. Commissioner Pogna.

21 COMMISSIONER POGNA: Here.

22 COMMISSIONER GANT: Commissioner Shearman.

23 VICE CHAIR SHEARMAN: Here.

24 COMMISSIONER GANT: Commissioner Gant,  
25 here. We have a quorum.

1 VICE CHAIR SHEARMAN: Thank you, sir.  
2 Next is the Pledge of Allegiance. And I would ask  
3 Commissioner Bergman to lead us in that; and then  
4 Salute to the New Mexico Flag, Commissioner Pogna.

5 (Pledge of Allegiance and Salute to the  
6 New Mexico Flag.)

7 VICE CHAIR SHEARMAN: Let me read to you  
8 the statement of precedence and authority for this  
9 meeting today.

10 This meeting is being conducted pursuant  
11 to New Mexico Statutes Annotated, Title 22,  
12 Section 8B-6K 2009. The purpose of this two-day  
13 meeting is to hear the recommendations from the  
14 Charter School Division, hear the applicants'  
15 responses to the recommendations, provide the  
16 opportunity for discussion among the Commissioners,  
17 and for the Commissioners to take action on each  
18 application.

19 According to NMSA 1978, 22-8B-6L, the  
20 Commission may approve, approve with condition, or  
21 deny the application. The Commission may deny an  
22 application if:

23 One -- or pardon me -- A: The application  
24 is incomplete or inadequate;

25 B: The application does not propose to

1 offer an educational program consistent with the  
2 requirements and purposes of the Charter Schools  
3 Act;

4 C: The proposed head administrator or  
5 other administrative or fiscal staff was involved  
6 with another charter school whose charter was denied  
7 or revoked for fiscal mismanagement, or the proposed  
8 head administrator or other administrative or fiscal  
9 staff was discharged from a public school for fiscal  
10 mismanagement;

11 D: For a proposed State-chartered charter  
12 school, it does not request to have the governing  
13 body of the charter school designated as a Board of  
14 Finance, or the governing board -- pardon me --  
15 governing body does not qualify as a Board of  
16 Finance, or;

17 E: The application is otherwise contrary  
18 to the best interests of the charter school's  
19 projected students, the local community, or the  
20 school district in whose geographic boundaries the  
21 charter school applies to operate.

22 Prior to taking action on each of the  
23 applications, the Commission will follow this  
24 process:

25 The Charter School Division will have ten

1 minutes to present its recommendation. The  
2 applicant will have 15 minutes to respond to the  
3 CSD's recommendation. The PED will have up to  
4 30 minutes to ask questions of the applicant and/or  
5 the CSD, but is not required to do so. The  
6 Commission will hold discussion as it deems  
7 necessary prior to holding a vote on the  
8 application. As stated in law, the Commission will  
9 then vote to approve, approve with condition, or  
10 deny the application.

11 If the Commission decides to reject or  
12 modify CSD's recommendation to approve and/or the  
13 proposed conditions, the Commission will articulate  
14 the reasons for rejecting or modifying the  
15 recommendations and/or the conditions.

16 There is a footnote to that. And I will  
17 read the footnote.

18 6.80.4.13, NMACW: If the chartering  
19 authority denies a charter school application or  
20 approves the application with conditions, it shall  
21 state its reason for the denial or imposition of  
22 conditions in writing within 14 days of the meeting.  
23 The written decision must be based upon the vote  
24 that was taken at the public hearing and the -- and  
25 reflect the stated reasons for the vote of the

1 chartering authority to deny a charter school  
2 application or approve the application with  
3 conditions.

4 Commissioners, are we ready to proceed?  
5 (Commissioners so indicate.)

6 COMMISSIONER SHEARMAN: Thank you.  
7 Charter School Division Director Kelly Callahan will  
8 have ten minutes for her presentation.

9 MS. CALLAHAN: Madame Chair,  
10 Commissioners, thank you for this opportunity. In  
11 the matter of StarShine Lisa Law Peace School,  
12 Santa Fe, the Charter School Division recommends  
13 that the application for the StarShine Lisa Law  
14 Peace School, Santa Fe, be denied. The basis for  
15 this recommendation is stated in the Charter School  
16 Division's Application, Final Recommendation and  
17 Evaluation for the school, which is located in the  
18 Public Education Commission document notebook under  
19 Tab 8K.

20 The basis for the recommendation is that  
21 the application is incomplete and/or inadequate  
22 based on the evidence identified from the  
23 application rubric, from the application review team  
24 analysis, and from the capacity interview team  
25 analysis, which is located under Tab 8K.



1           A recommendation for denial means that,  
2 overall, the application contains serious  
3 deficiencies and is consequently incomplete and/or  
4 inadequate. The deficiencies were not or could not  
5 be clarified or corrected by the applicants during  
6 the capacity interview or weren't addressed  
7 substantively at the community input hearing.

8           Madame Chair, that is the recommendation  
9 of the Charter School Division.

10           VICE CHAIR SHEARMAN: Thank you, Director  
11 Callahan. Would you let the record reflect also  
12 that Commissioner Carr is in attendance?

13           At this time, I would ask that the  
14 StarShine Lisa Law Peace School representatives come  
15 forward to the table.

16           COMMISSIONER GANT: Madame Chair, would  
17 you please request that all cell phones, pagers,  
18 et cetera, all the noise-makers be turned off at  
19 this time?

20           VICE CHAIR SHEARMAN: Thank for you that  
21 reminder. Would you please turn off all your  
22 electronic devices? Thank you.

23           For the record, representatives of the  
24 StarShine Academy, please state the name of your  
25 school, the names of the founders of the school, and

1 any other person or persons who are here today on  
2 behalf of your school. You will have 15 minutes to  
3 respond to the recommendations by the Charter School  
4 Division. Good morning.

5 MR. CONDOS: Good morning, Madame  
6 Chairman, members of the Commission. I am Leo  
7 Condos. I am a charter school attorney who's had  
8 the privilege of helping over 300 charter schools  
9 throughout the United States.

10 I have had the specific privilege of  
11 assisting the StarShine Academy in Arizona for the  
12 last ten years, including through their recent  
13 20-year extension. With me here we have the Arizona  
14 primary backbone of the organization with Dr. Byron  
15 Davies here. (Indicates.)

16 VICE CHAIR SHEARMAN: Pardon me for  
17 interrupting you. I don't think the clip is on that  
18 microphone to clip the volume button down.

19 MR. CONDOS: Oh, okay. I see.

20 VICE CHAIR SHEARMAN: And if each one  
21 would use the microphone, please, it would help us  
22 all to hear.

23 And please let the record reflect that  
24 Chairman Garrison is now in attendance. Thank you.

25 MR. CONDOS: With me is Dr. Byron Davies,

1 who has assisted the school with much of its  
2 curriculum and its analysis with respect to the  
3 peace component and some of the elements that seem  
4 to be a question.

5 I also have Mr. Rich Rose, who is the CFO  
6 of the Arizona StarShine, the parent of the model,  
7 so to speak, that is -- you know, we're requesting  
8 for New Mexico to look at. And we have two Board  
9 members.

10 MS. LYNCH: Donna Lynch.

11 MS. GUTIERREZ: And I'm Grace J.  
12 Gutierrez.

13 MR. CONDOS: And I think that's all the  
14 Board members who have made it so far.

15 First of all, when we look at this, I  
16 believe that you have to look at this school that's  
17 going to hopefully open in New Mexico as a  
18 replication of a school that has been operating in  
19 Arizona for approximately ten years. That school in  
20 Arizona -- and, hopefully, will be an indication of  
21 what you can look at here in New Mexico -- has been  
22 accredited by the NCA, and it is the only school in  
23 Arizona -- charter school -- that has obtained  
24 international accreditation, so that students here  
25 can have credits that will be recognized both in the

1 United States and in other countries.

2 The application before you clearly could  
3 have been written a bit better. I think we can all  
4 agree to that, especially after having reviewed the  
5 transcript and looking at some of the questions that  
6 were raised at that particular time.

7 What the Board has to understand, at least  
8 at this point, which wasn't really brought up at the  
9 last time, that while the application was being  
10 prepared and while it was initially submitted at the  
11 open meeting, the Arizona StarShine was going  
12 through the renewal process for an additional  
13 20 years, and all the documentation items that  
14 needed to go follow that.

15 In addition to that, they were moving from  
16 their old campus to a new campus, getting ready for  
17 250 kids, while they were proceeding with  
18 construction for the school itself, and also to --  
19 for the expanded basis of their community efforts,  
20 which the school spawns for the parents in the  
21 community as well as the kids. So while that is not  
22 an absolute excuse and is not intended to, that  
23 would hopefully assist you in understanding why some  
24 of the detail or some of the specifics of their  
25 program may not have been totally clear.

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1           The good thing is -- and, again, we're  
2 talking a replication utilizing the model that has  
3 been used in Arizona. The Arizona charter was  
4 granted a 20-year extension after operating for ten  
5 years. So the Arizona Board of Charter Schools felt  
6 that the school was doing adequately enough to give  
7 them another 20-year and continue on with their  
8 charter.

9           In reviewing the transcript, some -- and  
10 in some of the other questions in the rubric, it  
11 appears that there were some key areas that needed  
12 some clarification.

13           First of all, there needed to be some  
14 budget clarification, because it really wasn't  
15 clear, I believe, from the questions that you could  
16 really see where the money was and where it was  
17 going and how it was going to be utilized; some  
18 additional clarification with respect to the  
19 teacher-student ratio and how it was figured into  
20 the budget, since there was some questions as to the  
21 number of teachers possibly being inadequate to  
22 satisfy the programs that were being advocated; the  
23 role of the "peace" portion of the school, and how  
24 it was integrated into the total curriculum and  
25 total educational process; and then some question as

1 to the understanding of the board and their  
2 understanding or adopting of policies and procedures  
3 that would be utilized as the process goes through.

4 When you, I believe, have a big  
5 opportunity that has been placed upon your  
6 shoulders, and that's to shepherd the charter school  
7 movement in the State of New Mexico, in that  
8 responsibility, I believe you all take very  
9 seriously the fact that you want to open a quality  
10 school that is going to benefit the students in  
11 New Mexico and be in accordance with the charter  
12 school statute.

13 That statute is one of the better statutes  
14 in the United States, because it has a number of  
15 specific items that want to be addressed.

16 Charter schools, by their very nature, are  
17 created to be different from the traditional  
18 district schools. Your statute says that the  
19 curriculum is to be structured in some sort of  
20 different, innovative way, with teaching methods --  
21 excuse me -- and effective practices, a little  
22 different from the norm that's out there.

23 The school is supposed to have and develop  
24 innovative forms of measuring the student learning  
25 and achievement. They need to address how they're

1 going to be assisting the students, especially the  
2 at-risk students, creating new opportunities for  
3 teachers, improving student achievement, providing  
4 parts [verbatim] and students with an educational  
5 enhancement for new developments, encouraging  
6 parental and community involvement in the public  
7 school system, using site-based budgeting and  
8 holding the charter schools accountable for that.

9           Those are very strong points. And the  
10 problems with charter schools are that, because they  
11 are a different type of educational system in the  
12 way that they teach the basic requirements that are  
13 required by whatever state we have, such as  
14 New Mexico in this case, they often don't lend  
15 themselves as easily to a review process or a rubric  
16 process, because there's some deviation in there.  
17 And I think that may be found in some of the  
18 questions and the answers that were raised in the  
19 rubric.

20           The school that's being proposed to you  
21 here in New Mexico will satisfy every one of those  
22 charter school requirements under the Charter School  
23 Act. It is a very unique type of school, in the  
24 sense that it is looking at the child as a whole.  
25 Scores by themselves don't always indicate the

1 student's progress. This school will focus upon  
2 high-risk students or students that are at risk. In  
3 all probability, the high population will probably  
4 be in the surrounding areas, you know, of a Hispanic  
5 type of background. And these are children that  
6 normally, in the system, often get lost. But  
7 they're the children that need the assistance to  
8 break whatever cultural barrier they have which  
9 keeps people in poverty. And so their normal path  
10 could very well be, if they fall out of the system,  
11 to proceed down a road which will either lead them  
12 to problems with the law, gangs, their potential  
13 death in the future.

14 And so what StarShine's methodology is, to  
15 create a positive feeling in themselves to get them  
16 to school so they enjoy school. Because a lot of  
17 these kids usually were high non-attendance and  
18 absentees. In Arizona, their percentage is  
19 96 percent of these kids come to school, because if  
20 they don't come to school, they don't learn.

21 With the educational assistance and the  
22 curriculum they've got, this school has utilized and  
23 brought in the best models that they could find.

24 And so they're a proven type of educational  
25 practices, which, again, goes along with the Charter



1 School Act.

2 They have submitted a quality school with  
3 respect to helping the child enhance themselves, to  
4 become a meaningful person in life, help them  
5 accomplish what their life goals could be.

6 One of the impressive parts of the Arizona  
7 school -- and I believe you'll see it here -- is  
8 they have a "peace" component, which also parallels  
9 with the United Nations program. They started  
10 originally with Oprah's Ambassadorship program and  
11 deviated a little bit to enhance a little bit more.  
12 But when you walk out to a campus -- and one of the  
13 reasons this is one of my favorite schools is that  
14 you're greeted by every one of the students, who you  
15 encounter.

16 First thing they say is they give you  
17 their name, and they reach out and shake your hand,  
18 a tool that we all need in latter life in business,  
19 in whatever needs to be successful, the  
20 communication factor. They state their name.

21 They're all given a country that they're  
22 the ambassador of; so there's a pride factor there.  
23 They will also tell you about other countries. They  
24 will tell you they're the ambassador from whatever  
25 country it is. And then they tell you what they're

1 going to be when they grow up, what their profession  
2 is going to be.

3 So those three items clearly establish a  
4 pride in the child, and it sets some sort of goal  
5 for them.

6 And that's what we have to look at is --  
7 you know, as well, is the whole child and the  
8 learning environment that enhances a student to  
9 proceed. And that's some part that wasn't as clear  
10 in the application. But I believe last year when  
11 they were here, they illustrated a lot of the  
12 passion that they have and a lot of the passion that  
13 exists with respect to this program. They're  
14 committed to help these children.

15 Now, the other part that I believe you  
16 have to look at is when you you're reviewing an  
17 application -- and I would submit that the quality  
18 of the people and the quality of the program that's  
19 going to be coming before you --

20 MS. CALLAHAN: Five minutes?

21 MR. CONDOS: Five minutes? The -- that  
22 portion is evidenced here by having quality  
23 individuals who are bringing this for you. These  
24 individuals did some due diligence and found that  
25 they liked the StarShine program; they asked them to

1 come here and replicate the program.

2 With respect to the financials, I have  
3 Rich Rose here who can answer any questions that you  
4 may have with respect to the financial aspects. And  
5 recently, this board -- these people on the board  
6 found an opportunity that might be even more  
7 enhancing for the school and for the City of  
8 Santa Fe. And that's the St. Catherine complex  
9 there, where some -- it is now available; the school  
10 and some of their developers are talking about  
11 possibly utilizing that. So we have two good  
12 alternatives as far as where the school can go.  
13 Both of these will enhance the community.

14 Now, specifically with the recommendation,  
15 the items talk about that the handout says that if  
16 an applicant school response to one of the questions  
17 is labeled incomplete or inadequate, it should  
18 receive a score of zero for that section. There are  
19 no zeros on this particular rubric for StarShine  
20 Academy. So, by that definition, your definition  
21 here, there really are no specific areas that have  
22 been labeled incomplete or inadequate.

23 In fact, much of it is a perception, a  
24 lack of clarity; the fact that much of it cannot be  
25 supplemented also reflects on this. But as you go

1 forward, I think we satisfy all the requirements  
2 that are there, that the application is complete,  
3 that the rubric shows that the average was 1.4,  
4 which is above the middle that partially meets,  
5 almost to the full-meet level. And, again, there's  
6 no zeros in this application to show an inadequate  
7 or incomplete application.

8           The program itself clearly follows and  
9 will enhance the purpose of the charter school  
10 statutes. There's no revocation of any fiscal  
11 mismanagement or anybody involved here. The  
12 governing body will be the Board of Finance. It's  
13 basically statutory. And a governing body -- they  
14 understand governing bodies, have run it for ten  
15 years in Arizona, where you have the board who sets  
16 the policy, who is the final reviewer, financials --  
17 approves the budget. Then -- and it's clearly not  
18 adverse to the best interests of the students  
19 around.

20           So we believe that the application has  
21 fulfilled the requirements that are set out in the  
22 statute, that there should really be no legitimate  
23 basis for a denial on those conditions.

24           However, even in saying that, we can  
25 understand where the Board may have some concerns.

1 And your statute provides that you can provide an  
2 approval as the contract is going forward, that you  
3 have certain requirements, three of which are in  
4 your paperwork that you pass out. But this Board  
5 can condition the approval on certain items, such  
6 as, "We want an updated budget to really reflect the  
7 operation," if you still have questions with respect  
8 to that; and any other conditions that you think  
9 maybe will give you a better comfort level with this  
10 particular charter.

11 But the school is committed to the  
12 students. It has a proven -- the model has a proven  
13 track record. And I'm hoping that this Board will  
14 approve the charter application, allow this new  
15 charter to open here.

16 The other part is that if this was a  
17 schlocky type of charter or a deficient type of  
18 charter, the folks that have come out and asked for  
19 them would not be putting their reputation on the  
20 line. We're talking about some quality folks in the  
21 community who have an interest in helping the  
22 children. They don't have to do that. They have  
23 good jobs. But they are making this commitment, and  
24 they have done their due diligence in figuring out  
25 that this model that StarShine uses is a good model

1 for what they want to utilize here.

2 Education will be aligned with all the  
3 State standards that you have. Measurements will be  
4 aligned with whatever measurements are required,  
5 plus their own measurements. As you notice in  
6 there, there was reference to Galileo, which was an  
7 assessment process. They'll test the kid in the  
8 beginning, and then they do an IEP of their own  
9 individual plan and then move forward.

10 MS. CALLAHAN: It's time.

11 THE CHAIR: Thank you for your time.

12 We're now to the point where we will -- the  
13 Commissioners will ask questions of the applicant  
14 and of the Charter School Division. The floor is  
15 open for questions.

16 COMMISSIONER LOPEZ: Mr. Chair?

17 THE CHAIR: Commissioner Lopez.

18 COMMISSIONER LOPEZ: Clearly -- and I  
19 represent Santa Fe. And so clearly, you've brought  
20 passion; you've brought people; you have a school  
21 from another state. But you did not bring the one  
22 thing that this Commission is charged with. And  
23 that's evaluating the application. And it's two  
24 years in a row that this application has not -- not  
25 done the job.

1           And, you know, I really, really mulled  
2 this one over. I know all the -- I've spoken to  
3 many people from this school -- or some people from  
4 this school. And you know, in my mind, it's -- it's  
5 like you're saying, "Hey" -- or if I went to you and  
6 said, "Hey. I'm well-known in the community, and  
7 everybody trusts me, so lend me \$100,000, and we'll  
8 worry about the paperwork later. We don't know what  
9 the terms are going to be. We don't know how we're  
10 going to enforce it down the line."

11           And I really struggled with this one. But  
12 I really cannot support it now; I just cannot.

13 Thank you, Mr. Chair.

14           THE CHAIR: Thank you, Commissioner Lopez.  
15 Commissioner Gant.

16           COMMISSIONER GANT: Mr. Chair, members,  
17 only a couple of comments, was -- I expected, as I  
18 do with all of them, when they come to address us  
19 for the 15 minutes, to address specific issues and  
20 how they could be fixed. Didn't hear it.

21           If I went to a court of law, and there  
22 were issues in the court of law, I would expect an  
23 attorney to address specific issues that were  
24 brought up by the Commission. And I didn't hear it.

25           I would have liked to have heard from the

1 locals, who -- who will represent the schools, not  
2 someone from Arizona. I want somebody I could talk  
3 to that has ownership in this state to the charter.  
4 Didn't hear it.

5 I'm not going to ask any more questions,  
6 because I asked probably too many of them on the --  
7 at the community hearing.

8 And lastly, we all do it. But the issues  
9 in Arizona are not problems in New Mexico and should  
10 not have even been brought up, in my view. I know  
11 that sounds hard. But that's what they're paid to  
12 do is fix the issues in Arizona and give us a solid  
13 charter in the State of New Mexico. Thank you.

14 THE CHAIR: Thank you, Commissioner Gant.  
15 Other questions from Commissioners? Then I will  
16 give -- I will speak my piece. As I look through  
17 the -- the recommendation by the Charter School  
18 Division, it is about an application that can be  
19 improved, and I think you all are closer than you  
20 think.

21 And if I could give you some of my  
22 philosophy on the high-risk student that you're  
23 trying to reach, I think that's the important piece  
24 that needs to be expanded on and needs to be  
25 showcased in unison with the other things that



1 you're showing.

2           So let me speak to that. I think the  
3 great positive for you all is you have an  
4 established school in Arizona. Yes, Arizona is  
5 different from New Mexico. But it is still  
6 children. And if they're high-risk, they're  
7 high-risk. If you look at the six criminogenic  
8 needs, factors of children who are incarcerated, if  
9 you look at children with -- if you don't have  
10 self-esteem, you don't have much. If you don't have  
11 knowledge, you cannot build self-efficacy.

12           I would love to see those things in the  
13 application. How are you going to stare down at the  
14 awful things that are happening in these children's  
15 lives, and how are you going to rebuild them? Where  
16 is the counseling team? Where is the budget that's  
17 going to have this system of support, versus what I  
18 saw was a -- one ESL teacher in the budget? There  
19 are just things lacking that aren't matching right  
20 now.

21           You had mentioned some wonderful things,  
22 and I totally agree with you. Look at -- some of  
23 them growing up, just being a meaningful person. I  
24 don't know if you -- if -- if you meant to say that,  
25 but I really liked it; to just be meaningful, to be

1 able to -- to go into society and be a meaningful  
2 part of it. I always tell people that I like to be  
3 the -- I like to be part of the sum of things. I  
4 just like to be part of the sum of things, because  
5 we're all -- we're all connected. We're all  
6 inseparable in a way.

7 How are you going to make that connection  
8 through attuning and through role-modeling and  
9 through imitation?

10 I would love to see the  
11 attitudes-and-belief surveys, children assessing  
12 their quality of life, and your team of teachers  
13 doing something with that information, to speak to  
14 the individual child. When I stare at at-risk,  
15 you're looking at sexual abuse; you're looking at a  
16 child whose father was murdered in a drug deal, and  
17 then three years later, his mom was killed. It's  
18 just those things that you do not read about, you do  
19 not see too much in the media, because it's that  
20 bad.

21 It's almost like the car wreck on the  
22 freeway that you don't -- they're not going to show  
23 the body, because it's traumatic, because it's  
24 gruesome. Some of these children -- most all -- if  
25 they're labeled as at-risk, believe you me, it is

1 at-risk.

2 And those are the things in the  
3 application, to match the organizational structure,  
4 to match the budget to that absolute goal of  
5 rebuilding some of these kids. And they're -- some  
6 at-risk kids, it's just about where they live or  
7 maybe how much -- or lack of money that parents are  
8 making.

9 Maybe they don't have all those six  
10 criminogenic factors and needs going on. They're  
11 resilient. How are we going to build resilience? I  
12 link that to the University of Pennsylvania --  
13 there's a wonderful children's program, the  
14 Resilience Program up at Penn University. And --  
15 well, U. Penn. And those things in this  
16 application, I think you won't be hitting singles or  
17 doubles; you'd be hitting home runs.

18 But please come back before this  
19 Commission and bring everything and put it in the  
20 application. I really don't think you're that far  
21 away. But you need to work hard on this document.  
22 Any other questions? Concerns? Seeing none, we  
23 will entertain a motion.

24 COMMISSIONER BERGMAN: Mr. Chair?

25 THE CHAIR: Commissioner Bergman.

1 DR. DAVIES: Excuse me. Do we get to  
2 respond to your question?

3 THE CHAIR: I didn't ask one.

4 DR. DAVIES: Didn't ask a question?

5 THE CHAIR: Yes. Thank you, Dr. Davies.

6 COMMISSIONER BERGMAN: We're ready now.

7 THE CHAIR: We're not ready, because I  
8 want to hear what Dr. Davies has to say.

9 DR. DAVIES: Thank you. Thank you. One  
10 of the things I want to talk about StarShine and why  
11 it's a peace school, why -- we don't have a lot --  
12 and we do have SpEd people; we do have ELL people;  
13 we do have the professionals that deal with that.

14 But where we succeed is by creating a  
15 unique environment that creates respect in kids,  
16 respect for themselves, love for themselves. We  
17 give a lot of -- well, we call it "love" -- to the  
18 kids. We believe in noncoercive education. We  
19 don't try to beat anything into the kids. We try to  
20 appeal to their goals and to what they want to do.

21 I also want to address the specific issue,  
22 because this came up in the earlier session, about  
23 why StarShine is a peace academy.

24 StarShine was founded in the wake of 9/11  
25 to make a difference in how people understand and

1 deal with one another. StarShine has worked with  
2 the UN since its inception and was honored last week  
3 by a visit from the United Nations Director of  
4 Global Learning. StarShine has managed the UN Peace  
5 Art contest, and currently has a collection of  
6 30,000 items of peace art from children around the  
7 world.

8 Each year, starting in 2002, every  
9 StarShine campus hosts 11 days of peace and  
10 sustainability, running from 9/11 through the annual  
11 UN International Day of Peace on 9/21. Each of the  
12 11 days, students and teachers, with the help of  
13 distinguished visitors, explore a different topic in  
14 peace and sustainability, ranging from celebrations  
15 of art and music to demonstrations of solar energy.

16 Today, for example, kids and teachers at  
17 our school in Phoenix are exploring peaceful  
18 school-making.

19 During the entire school year, we are  
20 guided by StarShine's 15 guiding principles, many of  
21 which address issues in peace-making, international  
22 awareness, noncoercive behavior, and how to create  
23 value through financial awareness and  
24 entrepreneurship. We collaborate scientifically  
25 with scientists and engineers around the world to

1 better understand how people can successfully work  
2 together in small and large groups.

3 I personally just completed another visit  
4 to Zurich, Switzerland, to continue a collaboration  
5 with Dr. Rudolph Starkerman on development of his  
6 mathematical models of human behavior. While in  
7 Zurich, I also attended a conference on commercial  
8 developments in cold fusion energy production and am  
9 now beginning the development of curriculum  
10 materials on this topic for our STEM program.

11 I want to show you a few photographs from  
12 my visit to Switzerland. This is important, so  
13 please be patient. My assistant will show the  
14 photographs.

15 Be aware -- that's the first one. Be  
16 aware that I undertook this visit at no cost to  
17 StarShine, and stayed in a youth hostel one night  
18 with seven roommates to keep my costs down.

19 First, the photo with Rudolph Starkerman  
20 who is helping StarShine to understand the  
21 intricacies of human behavior. Second -- the second  
22 photo. Sally?

23 THE CHAIR: Dr. Davies, do me a favor.  
24 Limit the comments to perhaps a response to my  
25 comments, would you?

1 DR. DAVIES: Well, one minute, please?

2 THE CHAIR: Sure, go ahead.

3 DR. DAVIES: Okay. Second, the photo with  
4 Andrea Rossi, the developer of the E-Cat cold-fusion  
5 device, which promises to bring limitless,  
6 pollution-free energy to mankind at a very low cost.  
7 Third, the one I'm most proud of. On that day, I  
8 had run out of clean StarShine shirts and hadn't  
9 done laundry yet, so you see me out of uniform.

10 I was next to a busy square in Baden,  
11 Switzerland, approaching an elevator to take me down  
12 to the river level. As I approached, a small bird  
13 hit a window above and fell to the ground  
14 unconscious, its beak pointing down into the metal  
15 grate, which formed the surface in front of the  
16 elevator. While others stood around, more stunned  
17 than the bird, it seemed, I picked up the bird and  
18 held it in my hand.

19 While many people and a few dogs passed  
20 by, I held the stunned bird in the palm of my hand,  
21 stroking its head and its chest and its wing  
22 feathers. At first, its legs were splayed, but it  
23 gradually gained control of its muscles. I sat and  
24 I sat, finally waiting a half-hour for the bird to  
25 regain its composure and accumulating a couple of

1 tiny droppings in the process.

2           Initially, the eyes were closed, but  
3 gradually began to blink. Finally, it stood erect,  
4 flapped its wings and was gone.

5           This, ladies and gentlemen, is the kind of  
6 care and patience we exercise with the least among  
7 us, helping to build the best. I'll end by slightly  
8 paraphrasing a quote from a spiritual friend of  
9 mine. There is a tide in the affairs of men, which,  
10 taken at the flood, leads on to greatness. I don't  
11 need to continue with the bad part, because we know  
12 this will turn out well. This is such a tide.

13 StarShine is making a difference worldwide. We ask  
14 you to help StarShine become The School Different  
15 for The City Different. Thank you.

16           THE CHAIR: Thank you, Dr. Davies. And  
17 what Dr. Davies is speaking to is what I think is  
18 your -- is your strength. And that's expanding the  
19 socio-ecological model of these children who are at  
20 risk; many of them, home, if they have one, isn't  
21 that great, in their perception. And the only other  
22 thing they have is school. And so to expand that to  
23 community and international networks is that  
24 difference. Yes, ma'am.

25           MS. GUTIERREZ: Can I speak, sir?



1 THE CHAIR: No, this is the -- I will not  
2 allow any more -- and this is why, is because this  
3 is the Commissioner's question period. And so --

4 MS. GUTIERREZ: I just wanted to speak to  
5 what you had said.

6 THE CHAIR: No, thank you. Commissioner  
7 Canfield.

8 COMMISSIONER CANFIELD: Thank you,  
9 Mr. Chair. I would like to add some comments. And  
10 I'm going to follow along with what  
11 Commissioner Lopez said. And that -- I am here  
12 today listening. I was also at the public hearing.  
13 And I hear the passion, the commitment, and your  
14 mission. I get it. I think, to give you some  
15 feedback, I'm sorry I cannot support this. But  
16 that's not why.

17 So my -- you mentioned in your words, you  
18 know, that you gave us about accountability. I'm  
19 accountable to the citizens of the State of New  
20 Mexico. And when -- when -- we have a fiduciary  
21 responsibility. And when we attended the -- looked  
22 at your application and attended the -- the  
23 communications session, I have no confidence that --  
24 that there was ability to manage the budget. They  
25 were unable to answer questions about the budget.

1           And so my advice would be is if this  
2 doesn't pass today and you do decide to come back, I  
3 think it's an easy sell on your mission. I think  
4 what you need to demonstrate is the ability to  
5 manage the school in the context of State of New  
6 Mexico.

7           That would be my advice. And I wish you  
8 all the best.

9           MR. CONDOS: Mr. Chairman?

10          THE CHAIR: Thank you, Commissioner  
11 Canfield. Well said.

12          MR. CONDOS: Mr. Chairman, if we could  
13 respond?

14          THE CHAIR: No, sir. I've already given  
15 some great consideration already.

16          MR. CONDOS: We understand that.

17          THE CHAIR: So we will continue with any  
18 other questions or comments by Commissioners.  
19 Seeing none, the Chair will entertain a motion.  
20 Commissioner Bergman.

21          COMMISSIONER BERGMAN: I need to do it.

22          THE CHAIR: And we're back, deja vu.

23          COMMISSIONER BERGMAN: I'm attaching my  
24 high-technology device.

25          I would move that this Commission consider

1 the following resolution:

2           Whereas, the Public Education Commission,  
3 pursuant to the provisions of the Charter School  
4 Act, received and reviewed a charter school  
5 application from StarShine Lisa Law Peace School,  
6 Santa Fe;

7           Whereas, the Public Education Commission,  
8 pursuant to the provisions of the Charter School  
9 Act, held a public hearing regarding said  
10 application;

11           And, whereas, the Public Education  
12 Commission, pursuant to the provisions of the  
13 Charter School Act, held a meeting on September 19  
14 and 20, 2012, to hear the recommendations of the  
15 Charter School Division of the Public Education  
16 Department and comments from the charter school  
17 applicants.

18           Now, therefore, be it resolved that the  
19 application of StarShine Lisa Law Peace School,  
20 Santa Fe, be denied for the following reasons:

21           Overall, its application contained serious  
22 deficiencies and is consequently incomplete and/or  
23 inadequate. The deficiencies were not or could not  
24 be clarified or corrected by the applicants during  
25 the capacity interview or weren't addressed

1 substantively during the community input hearing.

2 Be it further resolved that the Public  
3 Education Commission adopt the Final -- excuse me --  
4 adopts the Application, Final Recommendation and  
5 Evaluation of this charter school applicant issued  
6 by the Charter School Division of the Public  
7 Education Department in support of the above-listed  
8 reason.

9 COMMISSIONER GANT: Second.

10 THE CHAIR: Seconded by Commissioner Gant.

11 Is there any discussion? Seeing none, we will

12 proceed with a roll-call vote through

13 Secretary Gant.

14 COMMISSIONER GANT: Commissioner Peralta.

15 COMMISSIONER PERALTA: Yes.

16 COMMISSIONER GANT: Commissioner Canfield.

17 COMMISSIONER CANFIELD: Yes.

18 COMMISSIONER GANT: Commissioner Bergman.

19 COMMISSIONER BERGMAN: Yes.

20 COMMISSIONER GANT: Commissioner Lopez.

21 COMMISSIONER LOPEZ: Yes.

22 COMMISSIONER GANT: Commissioner Carr.

23 COMMISSIONER CARR: Yes.

24 COMMISSIONER GANT: Commissioner Pogna.

25 COMMISSIONER POGNA: Yes.

1 COMMISSIONER GANT: Commissioner Shearman.

2 COMMISSIONER SHEARMAN: Yes.

3 COMMISSIONER GANT: Commissioner Garrison.

4 THE CHAIR: Yes.

5 COMMISSIONER GANT: Commissioner Gant

6 votes yes. Nine-oh in favor; none opposed.

7 THE CHAIR: The motion passes unanimously,  
8 and the StarShine application is denied. I want to  
9 thank everyone for their hard work and for your  
10 attendance today and for the support that you bring.

11 MR. CONDOS: Thank you, Commissioners.

12 THE CHAIR: Item L is New Mexico  
13 Connections in Santa Fe. It's a virtual school.  
14 And we will begin with the Charter School Division  
15 recommendation. Ten minutes.

16 MS. CALLAHAN: Mr. Chair, Commissioners,  
17 on the matter of New Mexico Connections Virtual  
18 School in Santa Fe, the Charter School Division  
19 recommends that the application for New Mexico  
20 Connections Virtual School, Santa Fe, be approved  
21 with provisions that must be completed pursuant to  
22 the Charter School Act and will become material  
23 terms in the charter school performance contract.

24 The PEC may identify other potential  
25 material terms which will be part of the performance

1 contract negotiation process.

2 The basis for this recommendation is  
3 stated in the Charter School Division's Application,  
4 Final Recommendation and Evaluation for the school,  
5 which is located in the Public Education Commission  
6 document notebook under Tab 8L.

7 The statutory provisions that must be  
8 completed by New Mexico Connections Virtual School,  
9 Santa Fe, are:

10 1. Planning Year Checklist. The  
11 applicant will complete the 2012-13 Planning Year  
12 Checklist, as developed by the Charter School  
13 Division, according to time lines set forth therein,  
14 which shall include regular progress reporting to  
15 the Charter Schools Division.

16 No. 2: Board of Finance designation. The  
17 governing body of the charter school must submit an  
18 application to the Public Education Commission to be  
19 designated as a Board of Finance pursuant to  
20 6.80.4.16 NMAC, on or before the end of its planning  
21 year, June 30, 2013. The applicant acknowledges  
22 that it shall not receive any state or federal  
23 funding, if available, until such time as it has  
24 been granted Board of Finance status by the PEC.

25 3. Public Schools Facility Authority,

1 PSFA, certification of facilities. The charter  
2 school will demonstrate to the Charter School  
3 Division that, prior to commencing operations, that  
4 it has sought and obtained certification from the  
5 PSFA, that the facility the charter school intends  
6 to occupy will receive a weighted New Mexico  
7 Condition Index, wNMCI, rating equal to or better  
8 than the average condition for all New Mexico public  
9 schools for the year the charter intends to occupy  
10 the facility, or, the charter school can demonstrate  
11 that within 18 months of occupancy that it has a  
12 plan for achieving the wNMCI. This is pursuant to  
13 22-8B-4.2(C), 2011, New Mexico Statutes 1978.

14 4. Performance contract. The charter  
15 school shall be effective upon the applicant and the  
16 Public Education Commission negotiating and signing  
17 the performance contract, pursuant to 22-8B-9,  
18 New Mexico Statutes 1978.

19 5. Commencement of operations. Prior to  
20 the end of the planning year, June 30, 2013, the  
21 charter school shall demonstrate that it has  
22 completed the above provisions stated herein, or by  
23 operation of law, before commencing full operation  
24 for the remainder of its charter school term. This  
25 is pursuant to 22-8B-12, New Mexico Statutes 1978.

1           And that is our recommendation.

2           THE CHAIR: Thank you, Ms. Callahan. Good  
3 morning. Please introduce yourselves and your title  
4 and any other person here that's representing the  
5 school for the record.

6           MR. GESSING: My name is Paul Gessing,  
7 board member.

8           MR. BOITANO: Good morning, Mr. Chair. My  
9 name is Mark Boitano, board member.

10          MR. LOPEZ: Patrick Lopez, board member.

11          MS. ROBINSON: Good morning, all. My name  
12 is Jeanine Robinson, board member.

13          THE CHAIR: Good morning. You have  
14 15 minutes to give us your presentation, and you may  
15 begin.

16          MR. BOITANO: Mr. Chairman and members of  
17 the PEC, good morning.

18                 We want to thank the Public Education  
19 Department for their recommendation of our charter  
20 application. Our eight board members worked hard on  
21 the application. We're very excited about the  
22 possibility that this charter will mean for students  
23 and learning throughout the State of New Mexico.

24                 We have talked about, together, the -- the  
25 importance of approving high-quality charter



1 schools, and we've shared common concerns about the  
2 mediocrity of charter schools in the State of New  
3 Mexico. And the process that you've created, along  
4 with the Charter School Division and the PED, I  
5 think is very, very important. It was validating  
6 that the PED recognized the capacity of our board  
7 and the merits of the application, as is evidenced  
8 by our score.

9 We appreciate the new application process,  
10 which is quantifiable through the work the PED is  
11 doing on developing and scoring based upon a rubric.  
12 We understand initially, there were 40-plus letters  
13 of intent, and 14 applications came through. And  
14 three applicants actually withdrew their  
15 application, and the PEC considered eleven charters.  
16 And the fact that four of eleven were approved by  
17 the PED, again, I think underscores the significance  
18 of the new system that we've created that will lead  
19 to higher-quality charter schools in the State of  
20 New Mexico.

21 Our board has reviewed the PED final  
22 recommendations and evaluation to the PEC  
23 thoroughly, and we will work with the Public  
24 Education Department on refining and improving the  
25 goals of the charter contract.

1           In particular, there were three areas that  
2 the PED asked us to focus on.

3           Number one, accountability goals. We feel  
4 it's important to note that meeting the State  
5 average is a significant goal, given that many of  
6 our students will have previously failed in their  
7 earlier school. The reviewers also were concerned  
8 that the statewide average fluctuates; but, in  
9 comparison, our population will also fluctuate as  
10 the school grows.

11           Our school may be a temporary place for  
12 many students, as stated in the mission statement,  
13 where we put for a period of time. We think the  
14 goals are high-achieving goals, but we're willing to  
15 work with the PED to refine and elaborate on those  
16 goals.

17           Number two, special education. All our  
18 policy will be created through the planning year and  
19 will be in alignment with New Mexico special  
20 education law. Each of the issues outlined in the  
21 feedback will be addressed, including due process  
22 for special ed students.

23           The third area that the PED asked us to  
24 take a look at was our organizational plan and  
25 governance. An organizational chart was provided on

1 Page 44 of our application. Employee procedures,  
2 including due process, will be created over the  
3 planning year and be in alignment with the  
4 New Mexico Personnel Act. We will also submit a  
5 date and time line for the lottery and identify the  
6 conditions for disenrollment, reenrollment, and  
7 transfers, and how that applies to the lottery  
8 process.

9 Mr. Chairman, members of the Commission,  
10 you know, experts tell us that virtual schools are  
11 the next step in a process that began in the 1980s  
12 with correspondence courses, further developed with  
13 online learning. And virtual learning is certainly  
14 a wave of the future. Experts tell us that virtual  
15 learning allows us to customize and personalize so  
16 that students can grow and develop and learn at  
17 their own pace, which is very significant.

18 We talked about that during the initial  
19 meeting with you. We had a neurologist that came  
20 and testified that virtual learning is really the  
21 normal way that the human mind learns and develops  
22 and grows. And certainly, virtual schools are a  
23 method to bring about transformation within the  
24 education system.

25 You know, I know there's been some concern

1 on the part of the Commission about our State law  
2 and whether or not our State law allows virtual  
3 schools. It's been an interesting question. We've  
4 had a number of attorneys look at the opinion that  
5 you've seen from the Charter School Division. And  
6 the attorneys that we've talked to have said it's a  
7 very weak opinion.

8 We talked about this a little bit when we  
9 met with you, because several of the grounds that  
10 that opinion are built on reference State law that  
11 does not apply to charter schools.

12 It references attendance zones; and  
13 charter schools do not use attendance zones. It  
14 referenced enrollment areas; and, as you know,  
15 charter schools are specifically exempt in State  
16 statute from enrollment areas.

17 You know, there's ambiguity in the law; I  
18 think we can all agree to that. But nowhere is  
19 there a prohibition; nowhere in the law is there a  
20 prohibition on allowing virtual schools in the state  
21 of New Mexico.

22 You've heard testimony from the LESC. You  
23 have quite a bit of documentation from the LESC  
24 regarding the research that they have done over a  
25 long period of time on charter schools and virtual

1 schools. When asked whether or not there's a  
2 prohibition in State law for approving charter  
3 schools [verbatim], in a public hearing, the LESC  
4 said no, there is no prohibition to authorizing  
5 virtual schools.

6 So I think we can all agree there is  
7 ambiguity. But we cannot all agree that there's a  
8 prohibition in State law when it comes to  
9 authorizing charter schools [verbatim].

10 Mr. Chair, members of the Committee,  
11 there's been a tremendous amount of support for this  
12 school. We have over 3,000 people in the state of  
13 New Mexico that have indicated an interest in  
14 enrolling in a school that doesn't even exist. You  
15 know, should you authorize us and we be allowed to  
16 bring this school onto the table of choice for  
17 students and parents in the state of New Mexico,  
18 there are lots of people that are very interested in  
19 enrolling in this school.

20 We had over 40 letters of support from a  
21 broad coalition of people in our charter  
22 application. And, as you heard during the -- the  
23 Commission hearing, we had to hold back the public  
24 testimony and the evidence of support for New Mexico  
25 Connections Academy because of the limit of time.

1 So there's been a tremendous amount of support.

2 So, again, we thank you for the process  
3 that you've helped to create -- along with the PED  
4 and the Charter School Division, to create highly  
5 accountable and very good charter schools in the  
6 State of New Mexico. We believe our application  
7 fits into that criteria. We have the recommendation  
8 of the PED, and we hope that you will vote in favor  
9 of authorizing New Mexico Connections Academy.

10 Thank you.

11 THE CHAIR: Thank you, gentlemen.  
12 Questions from Commissioners? The floor is open.  
13 Commissioner Bergman.

14 COMMISSIONER BERGMAN: Thank you,  
15 Mr. Chair. I do not have questions, per se, but I  
16 do have comments that I wish to bring forth at this  
17 time.

18 I'm going to start by reading from the  
19 Charter School Act, from the 22-8B-6, Section (L).  
20 This Legislature has provided specific reasons why  
21 this Commission -- we have to use to deny a charter  
22 school application. And one of those reasons is  
23 that the application is otherwise contrary to the  
24 best interests of the charter school's projected  
25 students, the local community, or the school

1 district in whose geographic boundaries the charter  
2 school applies to operate.

3 Now, since you have applied to be a  
4 statewide virtual charter school, and you have  
5 indicated in your application that you are going to  
6 recruit students statewide and enroll students  
7 statewide, then that, in essence, makes the entire  
8 state of New Mexico your district. And let me tell  
9 you the reasons why I read that.

10 I believe that if this application is  
11 approved, it would establish a precedent which  
12 future statewide virtual charter school applicants  
13 would be able to point to the New Mexico Connections  
14 and state that, "Well, our application was as good  
15 as theirs, and the PEC approved that application;  
16 therefore, they must approve our application."

17 I further believe that an approval of this  
18 application will lead to a flood of new applicants  
19 in the next two or three years from other groups  
20 that want to have their very own statewide virtual  
21 charter school. And another provision in the  
22 Charter School Act states that no more than 15 new  
23 charter schools may open in any given year. That  
24 means that, theoretically, at least, we could see 15  
25 new virtual charter -- statewide virtual charter

1 schools in the next cycle that would more than  
2 likely have to be approved; and then each subsequent  
3 year, the same possibility would happen.

4 And what I would see coming down the road,  
5 then, is -- and as Mr. Boitano has indicated, there  
6 is no legislative guidance, really, in this.  
7 There's no prohibition; but there's also no guidance  
8 from the Legislature in this particular area.

9 So my -- I guess this is a question. No,  
10 it's not a question. I'm just going to make it a  
11 comment, an observation.

12 I foresee that in three or four years in  
13 this state, that there could be a fairly large  
14 number of these schools operating in this state, 20  
15 30, 40, and they all will probably ask for an  
16 enrollment cap similar to what this one is; they  
17 could ask for 1,500 students or 2,000 students. And  
18 the implications are that these 20 or 30 schools  
19 would be drawing out of the pool of students in this  
20 state 30,000 or 40,000 or 50,000 students, if they  
21 had caps of 1,500 or 2,000 students each.

22 That will have significant negative  
23 impacts on the 89 school districts in this state. I  
24 just saw a piece in the paper just a few days ago  
25 that indicated there's about 330,000 students in



1 this state right now. So 30,000 would be -- a  
2 little bit less than 10 percent. That means that  
3 the potential possible -- and I acknowledge it's a  
4 hypothetical -- could have an impact on those  
5 89 districts, there would be a direct funding impact  
6 on those districts, because that funding would  
7 leave -- for instance, I'm from Roswell. The  
8 funding from all the students from Roswell that join  
9 this charter school will leave there and come to  
10 Santa Fe, because that's where you indicate your  
11 offices will be.

12 So I just wanted to raise that concern,  
13 because I have not seen anybody else, one, raise  
14 that concern; and then I would just reiterate that  
15 that negative impact on the 89 school districts in  
16 this state -- or potential negative impact -- would  
17 not -- would not be in the best interests of the  
18 students of those 89 school districts, would not be  
19 in the best interests of all the communities in the  
20 state for which these students would be pulled from;  
21 and, perhaps most importantly, I think it would not  
22 be in the best interests of the students who are  
23 left behind who choose not to join these virtual  
24 charter schools. Because if there is a significant  
25 negative budget impact in their district, classes

1 are going to have to be canceled; teachers are going  
2 to have to be laid off.

3 You'll see headlines about  
4 extracurriculars being cut back or canceled  
5 entirely, arts and the sciences, the choirs, and the  
6 bands, and everything else.

7 And that's the concern that I have about  
8 this application. And I do feel that it's not in  
9 the best interests of the students in this state at  
10 this time. And I certainly believe that the  
11 Legislature needs to get involved in this. And they  
12 may do it in the next session, and just -- so that  
13 what I just put forth doesn't happen. Thank you,  
14 Mr. Chair.

15 THE CHAIR: Thank you, Commissioner  
16 Bergman. Commissioner Canfield.

17 COMMISSIONER CANFIELD: Thank you,  
18 Mr. Chairman. Good morning. Good morning,  
19 Commissioners. I take a little bit of a different  
20 approach to this. And I don't specifically have  
21 questions -- actually, I don't have any questions.  
22 But I do want to say a few things and how I feel  
23 about this.

24 I am really in support of this. And I  
25 think it -- we really need to look at, from the

1 standpoint that back when this traditional education  
2 model was -- was developed many, many years ago,  
3 things were a certain way. And they're not that way  
4 anymore. The world has changed. Our kids have  
5 changed. Technology, obviously, has changed  
6 significantly; and maybe values have even shifted a  
7 little bit. And I'm not saying that's right or  
8 wrong; I'm just saying that things are different.  
9 And we continue to try and tackle the problem with  
10 the same methodologies we used years and years ago.

11           And so I think we have to have an open  
12 mind to this to try -- how do we address the  
13 educational problem in New Mexico and in our  
14 country? I know in this -- in our public hearing,  
15 we talked about social interaction as an issue. And  
16 I agree that social interaction is important. But I  
17 think maybe when I was younger, I needed help with  
18 that, or maybe I would feel like everyone needs help  
19 with that, no matter how old they are.

20           But maybe our kids are different, and they  
21 don't require as much social interaction. I don't  
22 think that's good or bad. It is what it is. We  
23 have a younger generation. They think differently;  
24 they work differently; they learn differently. And  
25 so I think we need to understand that.

1 I know that numbers are going around that  
2 there's a 40-percent dropout rate in our educational  
3 system right now. And, you know, in business, if  
4 that was a metric, that's a -- that's a failure. In  
5 any other organizations, if you lose 40 percent of  
6 your customers, you're a failure. And so I think we  
7 need to keep an open mind to those 40 percent and  
8 how we can -- how we can salvage those individuals.  
9 And that alone, if this virtual school could address  
10 some of that 40 percent, I would vote for it. So I  
11 think it's that important.

12 You know, we talked about costs. And I  
13 appreciate the Commissioner's comments. But I think  
14 that this could offer us significant opportunity.  
15 I'm not sure it's right now; I'm not sure the model  
16 is correct; I'm not sure the laws are proper or  
17 correct. I'm really not sure of that. But I know  
18 that we've got to try.

19 And I think if you think about it, that  
20 education, I think, is our most expensive line item  
21 in our budget today. And we see that budgets are  
22 shrinking, anyway, and we see that costs are going  
23 up: The cost of bricks and mortar, the costs to  
24 save ourselves from being sued, the costs of being  
25 sued. The costs are tremendous in our traditional

1 educational model, as it is. I think this could  
2 offer us a cost savings in the long run and still be  
3 able to educate our kids.

4           You know, is there risk here, I think  
5 there is a risk for our Commission to approve this.  
6 I'm willing to take that risk. I don't understand  
7 the legal issues. I know they're there. We talked  
8 about them last time, and maybe that's not to be  
9 addressed at our level. But I think maybe we want  
10 to send a message that says that, you know, we need  
11 to look at this. We need to embrace virtual  
12 learning in our system, because it offers so much  
13 potential.

14           I know there's cross-district funding  
15 issues. And if I'm a district in Roswell, I've got  
16 some concern. But I've also got kids that are  
17 dropping out there, too. And I've got to look at  
18 change, because if I don't, my revenue is going to  
19 shrink anyway; my costs are going to go up anyway.  
20 And you know, that's a death spiral in business. If  
21 your revenue is shrinking and your costs are going  
22 up, what do you start doing? You start cutting  
23 services. You start with the fat; then you hit the  
24 meat; then you hit the bone, and you're out of  
25 business.

1 I think we're on that death spiral,  
2 anyway, as costs escalate and we remove programs  
3 from schools. So I think this is potentially a  
4 solution for some of that. So I think we need to  
5 take the risk. I think we need to send the message  
6 to our legislative group that we're willing to  
7 embrace this. So I'm in support of this. Thank  
8 you, Mr. Chair.

9 THE CHAIR: Thank you Commissioner  
10 Canfield. Vice chair Shearman.

11 COMMISSIONER SHEARMAN: Thank you. We had  
12 this discussion before. And I appreciate the  
13 discussions of the other Commissioners. However, I  
14 am looking at a legal opinion rendered by the PED's  
15 counsel that says, "The Public Education Commission  
16 does not have the authority to approve virtual  
17 charter schools that are not brick and mortar,  
18 discernible as buildings, designed to educate  
19 students in particular places."

20 I am looking at a letter from the Attorney  
21 General's Office, in which it states, "The plain  
22 language of section 22-1-4 focuses upon residence,  
23 attendance areas, allowable class sizes and other  
24 descriptive terms that suggest, when passing this  
25 legislation, the Legislature had in mind the

1 physical presence of children in school buildings."

2 I am looking at the PED's own rule on  
3 distance education, where it says that all  
4 interaction, face to face, between student and  
5 teacher, may not be replaced with distance learning.

6 I, too, wish the Legislature would take  
7 action and solve this dilemma for us. No, it does  
8 not prohibit online or virtual schools. Neither  
9 does it approve, nor give us the ability to approve  
10 a virtual or an online school.

11 I think if Commissioners vote today to  
12 approve this virtual school, we will be stepping  
13 beyond our legal authority to do so. We have no  
14 authority to make law, nor to make rule. And I feel  
15 if we -- knowing that we have these legal opinions  
16 before us, if we take it upon ourselves to approve  
17 this school, regardless of whether you agree with  
18 online or virtual education or not, that, to my  
19 mind, is really not the issue today.

20 Today the issue is, can we legally  
21 authorize this school? And from everything I have  
22 read, every opinion I have seen, official opinions,  
23 the answer is no, we cannot. Until either the  
24 Legislature or the courts clarify whether a virtual  
25 school in New Mexico is legal, we don't have the

1 authority to override the courts or the Legislature  
2 and, in their place, say, "Yes, we may authorize a  
3 virtual school." We do not have that authority.

4 And I must say today, as I have told you  
5 before, I cannot support this application for that  
6 very reason. Thank you.

7 THE CHAIR: Thank you, Vice Chair  
8 Shearman. Commissioner Pogna.

9 COMMISSIONER POGNA: Thank you,  
10 Mr. Chairman. I agree with practically everything  
11 that Mr. Canfield stated. And I won't repeat it.  
12 But -- so I'll just tell you the story about my  
13 daughter. She is an adult. She is getting --  
14 finishing her third year in -- in her master's at  
15 the University of North Carolina. And it's been  
16 practically 99-percent virtual instruction, which is  
17 absolutely perfect for her.

18 I know that in virtual education, you have  
19 to be -- the child has to be disciplined. My  
20 daughter would have succeeded at it whether she was  
21 in first grade or now, as an adult getting her  
22 master's. This is an area that many students could  
23 utilize and succeed in. And I think that we --  
24 whether we have the authority or not, I believe that  
25 we have to pursue this. Thank you.



1 THE CHAIR: Thank you, Commissioner Pogna.  
2 Secretary Gant?

3 COMMISSIONER GANT: Mr. Chair, members,  
4 I'm just going to make some comments. I'm not going  
5 to ask any questions. I've asked probably too many  
6 questions the last time. But I would start with  
7 saying that if we check around, school districts  
8 like APS, Las Cruces, Santa Fe -- you name them --  
9 the larger ones all have a virtual component of  
10 their brick-and-mortar schools. Children can  
11 take -- students can take virtual classes,  
12 dual-enrollment classes, et cetera. But they still  
13 have to face a teacher. They still have to be in  
14 attendance, and their seat's in a chair. That's  
15 part of the system.

16 The State of New Mexico requires that all  
17 students be availed the opportunity for a free  
18 public education, that public schools will provide  
19 materials, to include combinations of textbooks,  
20 learning kits, supplementary materials, and  
21 electronic media, computers and peripherals.

22 That's Section 22-15-7(C), New Mexico's  
23 NMSA 1978. Section 22-15-17(A) NMSA states that,  
24 "Any qualified student or person eligible to be" --  
25 "to be a qualified student attending public school,

1 a state institute, or a private school approved by  
2 the Department, in any grade from first through  
3 twelfth of instruction, is entitled to the free use  
4 of instructional materials."

5 Section 22-15-7(C) states that, "Any  
6 school district, institute, or private school or  
7 agent receiving institutional material pursuant to  
8 the instructional materials law is responsible for  
9 distribution of the instructional material to  
10 eligible students and for the safekeeping of the  
11 instructional materials."

12 Since the charter application, if granted,  
13 will receive funds in the form of SEG from the State  
14 to operate the school, then the charter school is  
15 responsible for distribution of educational  
16 materials to students, all students, purchased with  
17 State funds.

18 There was an article in the New Mexican  
19 dated 8 September. It was reported that Senator  
20 Boitano said, "Charter" -- "The charter school  
21 includes" -- "This charter application includes a  
22 provision that the school will provide computers at  
23 the fifth year mark of its existence." Then he  
24 said -- this is a quote -- "That's something" --  
25 "This is some-" -- he said, "That's something

1 parents and teachers need to figure out" -- excuse  
2 me -- "...parents..." -- excuse me -- "...parents  
3 and students need to figure out."

4 This would tell me, as a parent, slash  
5 student, that from the start, from the first day of  
6 school of operation, that they, the student and  
7 parent, must provide all IT required to attend the  
8 school.

9 I do know there's a paragraph in there  
10 that talks about IT, 33 percent and all that. But  
11 this is a statement that was in the public.

12 This is against all State statutes for  
13 public education. Read and discuss information from  
14 that -- excuse me.

15 This also sets up a system which -- which  
16 the students whose parents and guardians can afford  
17 to provide computers and peripherals. What about  
18 the student that lives in -- and we have many of  
19 them in Cruces -- that live in hotels, cheap motels,  
20 just to live somewhere, that do not have Internet  
21 connections? They will not have an opportunity to  
22 go to this school.

23 It's a barrier. This is the same thing as  
24 saying, "No tuition"; you will not have a tuition in  
25 a public school, which a charter school is. They

1 cannot even expect to go to this charter school.

2 All students should be provided computers  
3 regardless of economic status. The district cannot  
4 pick and choose -- districts cannot pick and choose  
5 which students will receive required educational  
6 materials, such as books, reference materials,  
7 calculators, et cetera, based on a student's  
8 economic needs.

9 The same should be for charter schools for  
10 providing the required educational materials to  
11 support teaching of all students in the core  
12 curriculum. You're required by State law to provide  
13 all materials required by the student to get  
14 through -- to be successful in the core curriculum;  
15 not the extra-curriculars, but the core. Computers  
16 in your application are essential to success of  
17 teaching the core curriculum.

18 I wonder about the legality of providing  
19 Internet services to a family using SEG when there  
20 is the possibility that family members will also be  
21 using -- be able to use the connection for work  
22 and/or pleasure when the student is not on the  
23 system. Will we allow taxpayers' money to do that?  
24 Parents may bring work from home and connect to  
25 their individual offices to complete. Are we not

1 paying part of the bill for their work in their  
2 offices when they work in an office?

3           Lastly, as an elected official who has, as  
4 do other elected officials, been sworn to uphold the  
5 New Mexico Constitution and statutes, by voting in  
6 favor of this application, I firmly believe I will  
7 be -- will not be honoring the oath that I have  
8 taken. This oath requires that I support all  
9 students, and not just those that can afford to  
10 attend the school as proposed. Thank you,  
11 Mr. Chair.

12           THE CHAIR: Thank you, Commissioner Gant.  
13 Any comment or response?

14           MR. BOITANO: Mr. Chair, yes. Thank you.  
15 I think Mr. Gessing and I would like to just  
16 address -- respond to a couple of the concerns that  
17 Commissioners have.

18           MR. GESSING: Mr. Chair, Commissioner  
19 Bergman, I wanted to respond to your specific issues  
20 that you brought up relating to the potential  
21 flooding of the market, if you will, with virtual  
22 charter schools. And while this is certainly not  
23 the strategy that we are -- as far as I know, anyone  
24 else -- has put together, it would be a strong  
25 indicator that if that large of a number of students

1 was pursuing a virtual school in leaving their  
2 existing school for that opportunity, that this  
3 opportunity for the virtual school is really  
4 providing something that they are not getting in  
5 their current educational environment.

6 And, for us, the school system exists --  
7 this all exists, the building here, has to exist for  
8 the children, not for the benefit of the districts  
9 and the adults and anyone else working in those  
10 buildings.

11 And so what we need in New Mexico -- and  
12 this is one aspect of this larger issue -- is we  
13 need a -- a system that is set up for the benefit of  
14 the children, for the educational opportunities, to  
15 provide those for the children in those schools. We  
16 need a system that's flexible enough to successfully  
17 adjust and do everything that's necessary to serve  
18 those children.

19 So I don't think that the problem you  
20 outlined is likely to occur. I don't see that  
21 many -- I don't have a crystal ball. But I don't  
22 see how many -- how that many of these types of  
23 schools will come to be. This would be the second  
24 serving New Mexico, with the one in Farmington being  
25 the other that I know of. And, you know, if this is

1 an option that is pursued by that many children --  
2 our view has never been that it is a universal  
3 option that all children are going to want to be in  
4 a virtual school.

5 But if the numbers have been dramatically  
6 lowballed, and it turns out that there is far  
7 greater demands than we can ever fulfill, I think  
8 that's a strong signal to the existing school  
9 systems that they need to address that market need  
10 and expand it for the benefit of the children and  
11 their families. Thank you.

12 MR. BOITANO: Mr. Chair, you know, there's  
13 a lot of -- I've heard a lot of comment about the  
14 negative impact that this school will have on the  
15 system. And, you know, if the question is will  
16 students enroll in virtual schools, the answer is  
17 absolutely, yes. Will -- will students enroll in  
18 charter schools? Absolutely, yes. And if that  
19 means they exit the traditional system, and that's a  
20 negative thing, then so be it.

21 Because that's the purpose of the Act.  
22 You know, be mindful. In 1999, before we passed the  
23 Charter School Act, students and parents had one  
24 choice. They didn't have any choice. They were  
25 forced; they were coerced to go to the school that

1 was in their neighborhood. They had no choice. The  
2 purpose of the Charter School Act is to give  
3 students and parents choice.

4 So, you know, if the Commission perceives  
5 that students leaving the traditional system and  
6 going to a virtual school is a negative thing,  
7 that's fine. But in the spirit of the Charter  
8 School Act, that's what we want to do. We want to  
9 give parents and students more choice. And I think,  
10 you know, we've made a compelling case that the  
11 quality of education delivered, provided by this  
12 virtual school, will be very good. And so I just  
13 kind of want to mention that.

14 As, you know, Commissioner Gant, as far as  
15 the computers go, I'm sure you've never had this  
16 experience when being interviewed by the print  
17 media. But you spend 15, 20 minutes, and you say a  
18 lot of stuff. And then one sentence comes out. One  
19 sentence comes out. Our -- our application says  
20 that the goal is, by the fifth year, when we have  
21 sufficient funding, every parent and student will  
22 have a computer. That's the goal. That's in the  
23 application.

24 For the first couple of years, we may not  
25 be able to provide that to families, to students.



1 And that's in our -- that's in our charter  
2 application. And parents need to enter a virtual  
3 school, students need to enter a virtual school, as  
4 they do with any charter school, with their eyes  
5 wide open, knowing that that being on the table, and  
6 us telling them up front, it may not happen the  
7 first year or two, but it will happen by the fifth  
8 year.

9 So anyway, again, thank you. I think we  
10 could -- there's obviously a difference of opinion  
11 in a number of different areas. But I just want to  
12 remind the Commission, this is the reason why we  
13 passed the Charter School Act. And parents and  
14 students choose these schools. And they are, to  
15 some degree, responsible for the outcomes. So  
16 they're a part of the whole accountability system  
17 that we're trying to address, parental involvement,  
18 parental engagement, higher quality charter schools.  
19 Thank you, Mr. Chair.

20 THE CHAIR: Thank you, Senator.  
21 Commissioner Lopez and then Commissioner Gant.

22 COMMISSIONER LOPEZ: Good morning. I have  
23 a real concern about connectivity. It really isn't  
24 anywhere it should be in New Mexico. And that  
25 creates a two-tiered system. The ones who can get

1 connectivity will be the ones who can attend this  
2 school, and the ones who can't won't. And this  
3 recent trip that we took on all these public  
4 hearings for these applications, we were coming back  
5 from Carlsbad and we had no, no connection from  
6 Carlsbad all the way to I-40. It was -- like, we  
7 were doing research or something.

8 So it really does create a two-tiered  
9 system. I mean, the satellites aren't going to  
10 point their satellites down at a community that has  
11 three subscribers. And I don't see how you're going  
12 to make it equal-access. It is public money. And  
13 I'm real concerned about that.

14 THE CHAIR: Thank you, Commissioner Lopez.  
15 Did you have a question, or is that just a  
16 statement?

17 COMMISSIONER LOPEZ: No. A comment.

18 THE CHAIR: Commissioner Gant.

19 COMMISSIONER GANT: A comment, and then a  
20 point of reference. First of all, point of  
21 reference. Public Code 6.80.4.12F specifies, "A  
22 charter school shall be a nonsectarian, nonreligious  
23 and non-home-based public school that operates  
24 within the geographic boundaries of the public  
25 school district." This regulation precludes this

1 district -- this charter, in my view, from operating  
2 outside of the boundaries of Santa Fe School  
3 District.

4           Secondly, I understand, from across the  
5 United States and watching what's going on, and my  
6 readings, there's a lot of leadership, and some in  
7 this state, that want to see privatization -- more  
8 privatization of public schools. The Constitution  
9 of the State of New Mexico doesn't allow for  
10 privatization of public schools. It says, "All  
11 students will have a right to a public -- free  
12 public education." This is not free. Thank you,  
13 Mr. Chair.

14           THE CHAIR: Thank you.

15           COMMISSIONER CARR: Mr. Chair?

16           THE CHAIR: Thank you, Commissioner Gant.  
17 Commissioner Carr.

18           COMMISSIONER CARR: I have some comments.  
19 And you guys have probably heard my speech on  
20 virtual schools before, but I'll add a few things.  
21 Recent studies have shown that virtual schools are  
22 not effective for students. They have shown just  
23 the opposite, that their test scores are lower, and,  
24 of course, they're not as adept at interacting with  
25 other people. And so I guess I'm reading a

1 different set of expert opinions.

2 I believe that our children come first.  
3 The institution -- the educational institutions that  
4 we have in the state exist for the sole purpose of  
5 serving students. And we have done so for over a  
6 century in this state -- well, longer than that.  
7 And to make any reference that we're not -- you  
8 know, the schools and the institutions are not here  
9 to employ teachers, to employ administrators. They  
10 are here to educate children. And I don't think  
11 anybody objects to that. But I kind of get that I  
12 am getting a different answer.

13 Children come first. And before minor  
14 arguments about the law -- and I don't think they  
15 are minor arguments; I think they are significant.  
16 I concur with Commissioner Bergman and Commissioner  
17 Shearman and Commissioner Gant on everything that  
18 they said. They said it -- stated it much better  
19 than I can at the present time.

20 I'm not willing to put students at risk in  
21 an experiment that hasn't been proven to work in the  
22 past. I support virtual education for certain  
23 individuals, certain classes, as something that adds  
24 to a curriculum that's already within a  
25 brick-and-mortar school. As a veteran, I would not

1 put my soldiers at risk without looking at all the  
2 data and doing all the research that needs to be  
3 done.

4 There is a great deal of -- there is a  
5 great movement in other states where states that  
6 allow charter schools for profit. And adding in  
7 computers to the mix makes that profit go way up for  
8 those schools that are out of state. You don't have  
9 to have very many teachers; you don't have to have  
10 all the facilities; you don't have to have all the  
11 interaction that you need.

12 Teachers cannot be replaced with a  
13 computer. I'll -- guess I'm getting too old, maybe,  
14 and maybe I'm just old-fashioned. But I don't think  
15 so. Parents can't be replaced with a computer. You  
16 know, you can't play football on a computer. You  
17 can't play soccer on a computer. You can't do  
18 experiments in a science lab on a computer. Well,  
19 they say you can; but, you know, I don't want a  
20 doctor working on me who had all of his classes on a  
21 computer.

22 And if you -- I'm -- and then last thing  
23 I'll say is, in our system, parents are not held  
24 accountable. When we do the test scores and teacher  
25 evaluations and school evaluations, they're not held

1 accountable. They're supposed to have their kids in  
2 school every day; and, if their kids are truant,  
3 they could be held accountable. But they're not  
4 even held accountable under the current law in  
5 regards to truancy, most of the time. So -- great.  
6 We've been working on getting parents involved all  
7 the time.

8 And I cannot support this for all the  
9 reasons that I stated, and all the reasons that  
10 Commissioner Gant, Commissioner Shearman, and  
11 Commissioner Bergman also stated.

12 THE CHAIR: Thank you. Commissioner Carr.  
13 Are there any other questions? Commissioner  
14 Bergman.

15 COMMISSIONER BERGMAN: It's not a  
16 question; it is a comment. Just kind of responding  
17 to what I heard there -- your response -- we're not  
18 going to go back and forth. But you may have taken  
19 my comment as my being opposed to virtual learning.  
20 I am not opposed to virtual learning.

21 I am actually a very strong supporter of  
22 IDEAL New Mexico, which is a state arm that provides  
23 distance learning to kids all over the state, to  
24 kids who don't have access to things like physics,  
25 for instance, because they're in too small a school

1 district.

2 A specific instance that I heard a person  
3 from IDEAL New Mexico share several years ago, which  
4 included a student in my district, which includes  
5 Capitan, which is where this student was, a little  
6 tiny district. And this young lady wanted to take  
7 French, because, of course, Capitan only offered  
8 Spanish. She took French through IDEAL New Mexico.  
9 And that's great for that young lady. And I know  
10 that's happening right now all over this state.

11 So I am not opposed to virtual learning or  
12 distance learning. And, yes, what I laid out there  
13 probably is a worst-case scenario. But I felt like  
14 somebody needed to say it, because if we wait, and  
15 it turns out I am right, then it's going to be too  
16 late to correct the problem, which is why I then  
17 talk about the Legislature. It needs to be  
18 corrected before a possible worst-case scenario does  
19 happen in this state.

20 But I support distance learning and  
21 virtual learning, but not in this particular  
22 context. Thank you, Mr. Chair.

23 THE CHAIR: Thank you, Commissioner  
24 Bergman. Any other questions from Commissioners?  
25 Senator Boitano, we had a -- an exchange the last

1 meeting in the community input hearing in which you  
2 asked, "Can the Public Education Commission approve  
3 an application with conditions?" And we, indeed,  
4 can. And when I think of conditions, I think of  
5 the -- the funding considerations for virtual  
6 charter schools, the funding formula work group,  
7 September 5, 2012, this work was done by the  
8 Legislative Education Study Committee, and  
9 Dr. Harrell, Deputy Director, authored this work.  
10 And it states all the funding issues, the  
11 organizational issues that come about with charter  
12 schools. So this would be a hypothetical question  
13 for you being in the Legislature.

14 If the Public Education Commission  
15 approved with conditions to address a lot of these  
16 issues cited in this report -- in this work group  
17 report, and if they indeed address them adequately,  
18 would that give your school -- and let's say it's  
19 signed by the Governor and is passed as a bill.  
20 Would that give this school enough time to -- to get  
21 going for the planning year?

22 Because the legislative session, of  
23 course, isn't starting till the new year, and  
24 then -- and then by the time a bill is signed and --  
25 it's hard to get ducks in a row when you don't know



1 if there's any finish line yet.

2 So this, just, hypothetical, if you could  
3 give me your thoughts on that.

4 MR. BOITANO: Well, Mr. Chairman, that's  
5 a -- that's a very good question. You know, the  
6 first -- I mean, the answer is -- I mean, from my  
7 viewpoint, it would be very difficult. Because,  
8 first of all, whether or not the Legislature will  
9 act is very speculative. Secondly, which areas  
10 might they act on? Because you outlined a number of  
11 different areas there.

12 And, you know, it may be that they act on  
13 one area, but not another. It may be that they act  
14 on two areas, but not a third and so forth. So --  
15 that's a good question. I don't know. I mean,  
16 frankly, I would -- I would probably -- and I might  
17 be speaking out of turn here, because I haven't  
18 talked to our board about this. But I think it  
19 would be kind of, you know, a slippery slope if we  
20 acted on speculation what the Legislature might do.

21 It's probably a much better thing to act  
22 on what we know is -- is true now, what we know is  
23 in place in rule and in statute, rather than in  
24 speculation of what the Legislature might do.

25 I mean, I see David back there. And I

1 don't know if you want to yield to him, David  
2 Harrell from the LESC. But I know that the LESC is  
3 considering language to address some of the issues  
4 that have come up. But we haven't actually seen --  
5 and we're not going to see the bills until November.  
6 We actually haven't seen the language yet at all.  
7 So we don't even know which areas we're going to be  
8 addressing. So it would be kind of a slippery  
9 slope.

10 THE CHAIR: And another part -- the other  
11 side of that is the -- when Governor Bill  
12 Richardson -- they created the Cyber Academy Act, it  
13 was a State-led collaboration between all the  
14 stakeholders, the Higher Education Commission, folks  
15 trying to get this thing right by making sure that  
16 all bases are covered. And I guess I would need an  
17 update for the PEC. Maybe we could get a  
18 presentation -- Beverly, or Ms. Callahan -- a  
19 presentation on IDEAL New Mexico, to see where it's  
20 at right now, and who's -- who are the stakeholders  
21 in it and who isn't -- who isn't involved that  
22 should be involved in this -- in this effort.

23 Because I don't know what IDEAL is doing  
24 and not doing, who they're serving and who they're  
25 not serving right now, as we sit here today. And so

1 that's a big piece of it when looking at the initial  
2 intent of the Act and the plan that was made by --  
3 by the former Secretary of Education. And so when  
4 we look at partisan politics and executive control  
5 over education, I think more of that is going to  
6 come about, that you're at risk that if a Governor  
7 doesn't win reelection, then does the next group who  
8 are going to grab the low-hanging fruit of children  
9 and low-hanging fruit of education going to be  
10 forced to -- we're going to make change because  
11 New Mexico is ranked 47th, and then here comes more  
12 change? Is "A-through-F" gone tomorrow? So those  
13 are some of the things that worry me.

14           The other side of this is that I don't  
15 believe that the State law will address these things  
16 until there's a school. Now we have a live example,  
17 and now there's things happening that we need to  
18 either stop; we need to improve; we need to augment;  
19 we need to expand. I really think that because all  
20 the innovation is on the technological side, virtual  
21 education is about innovation and invention, and who  
22 knows how many patents going on right now through  
23 the USPTO.

24           But you're looking at -- that's where  
25 things are pushing the envelope. State law, in any

1 state, is always going to follow that. It will  
2 always follow that. It will never lead it.  
3 Innovation isn't in the bureaucracy. So it is a  
4 lot, Senator. It's a heck of a lot. So --

5 MR. BOITANO: Well, Mr. Chair, I would  
6 remind the Commission that there actually is a  
7 virtual school up and running in the state of New  
8 Mexico now. I know you're aware of that.

9 THE CHAIR: The New Mexico Virtual Academy  
10 in Farmington.

11 MR. BOITANO: I would say, too, what's  
12 good for the goose is good for the gander. And I  
13 was around when we changed the whole structure of  
14 public education in New Mexico in the State level.  
15 So I was around when we had a State Board. I was  
16 around when the Board hired the Superintendent. I  
17 was around when we had the discussion and so forth  
18 about changing all of that, creating a PEC that was  
19 advisory only, not policy-making, and giving the  
20 authority to a Secretary of Education that was  
21 accountable to the Governor, and who was elected by  
22 the people of the State of New Mexico.

23 So these are hard decisions. And it's  
24 kind of interesting, because I'm a minority party  
25 member. And I supported those changes, knowing

1 that, you know, sometimes we're going to have a  
2 Democrat in the governor's seat, and sometimes we're  
3 going to have a Republican.

4 But I think policy needs to be  
5 broad-based. And, like I said, if that was -- if  
6 that was good policy when we have a Democrat in  
7 charge, it's the same when we have a Republican in  
8 charge.

9 So these are tough decisions for you. But  
10 this was the authority that we gave to the  
11 Secretary, the PED. And, you know, State law  
12 allowed you to authorize a charter school. So I,  
13 you know, am hoping that you guys -- and girls --  
14 will really take that in consideration and  
15 understand that, you know, really, the purpose --  
16 that one of the main purposes of the Charter School  
17 Act is -- you know, we talked about choice; but  
18 innovation and quality and focus on those bedrock  
19 principles of what we're hoping to see. And as you  
20 mentioned very well, this is really a step in the  
21 right direction when it comes to innovation.

22 THE CHAIR: Thank you, sir.

23 COMMISSIONER POGNA: Commissioner?

24 THE CHAIR: Commissioner Pogna.

25 COMMISSIONER POGNA: Mr. Chairman, I

1 simply want to make a person- --

2 THE CHAIR: Press that down, please.

3 COMMISSIONER POGNA: Personal comment,  
4 since I'm the oldest one around here, and I know a  
5 little bit of history. Long ago, when the  
6 Legislature created the task force for charter  
7 schools, I was on the State Board of Education, and  
8 I was appointed. And Senator Boitano was a new  
9 senator at that time. And I think that was 19- --  
10 1998, when we started on the task force of charter  
11 schools. And Senator Boitano has been a very strong  
12 advocate of charter schools since then. And we  
13 appreciate it. Thank you.

14 THE CHAIR: Thank you, Commissioner  
15 Pogna. Any other questions from Commissioners? I'm  
16 going to call a -- this may seem untimely, but  
17 there's a rhyme and reason. I want to -- I want to  
18 consult with my legal counsel and also with  
19 Ms. Callahan. So I'm going to call a 15-minute  
20 break. We're in recess.

21 (Recess taken, 9:45 a.m. to 10:10 a.m.)

22 THE CHAIR: The Public Education  
23 Commission is back in session. We are asking  
24 questions, making comments on the -- the applicant  
25 before us. Any other questions or comments from

1 Commissioners?

2           Seeing none, I just want to make a  
3 clarification with the applicant, that my statement  
4 on partisan politics wasn't about the dynamics of  
5 partisan politics. It was about the time element of  
6 education potentially changing every four years  
7 because of elections. So I just wanted to make that  
8 clear and for the record.

9           The Chair will entertain a motion.  
10 Commissioner Shearman.

11           COMMISSIONER SHEARMAN: Whereas, the  
12 Public Education Commission, pursuant to the  
13 provisions of the Charter School Act, received and  
14 reviewed a charter school application from  
15 New Mexico Connections Virtual School;

16           Whereas, the New Mexico Education  
17 Commission [verbatim], pursuant to the provisions of  
18 the Charter School Act, held a public hearing  
19 regarding said application;

20           And, whereas, the Public Education  
21 Commission, pursuant to the provisions of the  
22 Charter School Act, held a meeting on September 19  
23 and 20, 2012, to hear the recommendations of the  
24 Charter School Division of the Public Education  
25 Department and comments from the charter school

1 applicants;

2 Now, therefore, be it resolved that the  
3 application of New Mexico Connections be denied for  
4 the following reasons:

5 The application is otherwise contrary to  
6 the best interests of the charter school's projected  
7 students, the local community, or the school  
8 district in whose geographic boundaries the charter  
9 school applies to operate.

10 Furthermore, there is sufficient ambiguity  
11 in State law regarding the Commission's authority to  
12 legally approve a virtual charter school.

13 Be it further resolved that the Commission  
14 acknowledges the PED's rule, 6.30.8.8A NMAC, which  
15 provides as follows:

16 Distance learning courses provide an  
17 opportunity for schools within the state to expand  
18 their course offerings and expand access to learning  
19 resources. While distance learning technologies may  
20 occasionally be used in full-time education  
21 programming for students in unusual circumstances,  
22 asynchronous distance learning shall not be used as  
23 a substitute for all direct, face-to-face,  
24 student-and-teacher interactions, unless approved by  
25 the local board of education.



1 Thank you.

2 COMMISSIONER GANT: Second.

3 THE CHAIR: There is a motion and second  
4 by Commissioner Gant. Commissioner Bergman?

5 COMMISSIONER BERGMAN: I don't know if  
6 anybody else caught it, but Commissioner Shearman,  
7 in your second paragraph there, you said "New Mexico  
8 Education Commission" instead of "Public Education  
9 Commission."

10 COMMISSIONER SHEARMAN: I stand corrected.  
11 Thank you, Commissioner.

12 THE CHAIR: Thank you. The motion has  
13 been seconded. Is there any discussion? Seeing  
14 none, we will proceed with a roll-call vote from  
15 Secretary Gant.

16 COMMISSIONER GANT: Commissioner Peralta.

17 COMMISSIONER PERALTA: Yes.

18 COMMISSIONER GANT: Commissioner Canfield.

19 COMMISSIONER CANFIELD: No.

20 COMMISSIONER GANT: Commissioner Bergman.

21 COMMISSIONER BERGMAN: Yes.

22 COMMISSIONER GANT: Commissioner Lopez.

23 COMMISSIONER LOPEZ: Yes.

24 COMMISSIONER GANT: Commissioner Carr.

25 COMMISSIONER CARR: Yes.

1 COMMISSIONER GANT: Commissioner Pogna.

2 COMMISSIONER POGNA: No.

3 COMMISSIONER GANT: Commissioner Shearman.

4 COMMISSIONER SHEARMAN: Yes.

5 COMMISSIONER GANT: Commissioner Garrison.

6 THE CHAIR: No.

7 COMMISSIONER GANT: Commissioner Gant

8 votes yes. It's six in favor, three opposed.

9 THE CHAIR: The vote is six to three. The  
10 motion passes, and the application for the virtual  
11 school is denied. Thank you, gentlemen, for your  
12 hard work on your application.

13 MR. BOITANO: Mr. Chair, members of the  
14 Commission, thank you.

15 MS. ROBINSON: Thank you.

16 COMMISSIONER CARR: Correction on the  
17 vote. That should have been seven to two. Oh.  
18 There was three? Oh, seven to three? Six to three.

19 COMMISSIONER GANT: Six to three.

20 THE CHAIR: And I'm sorry. I lost my  
21 place in my -- I guess I can't even call it  
22 organization. But it's the New Mexico Connections  
23 application is denied.

24 The next item on the agenda is letter M,  
25 is Taos Mountain Charter School. I'd like to ask

1 the applicant to come down to the front table. Yes,  
2 ma'am.

3 MS. CALLAHAN: Mr. Chair, I just wanted to  
4 let you know that Taos Mountain withdrew on Monday.

5 THE CHAIR: And I knew that. I'm going to  
6 drink more coffee. Hold on.

7 COMMISSIONER GANT: I'm the old one up  
8 here. What's your problem?

9 THE CHAIR: You have this? Look at that  
10 technology. The Taos Mountain Charter School  
11 application has been withdrawn.

12 Letter N is the Taos International School.  
13 And they are at the ready. Please come forward.

14 We will begin -- before you do your  
15 introductions of name and title, we will begin with  
16 the Charter School Division's recommendation. That  
17 will be ten minutes, and then you will have  
18 15 minutes to respond. Please proceed,  
19 Ms. Callahan.

20 MS. CALLAHAN: Mr. Chair, Commissioners,  
21 in the matter of Taos International School in Taos,  
22 New Mexico, the Charter School Division recommends  
23 that the application for Taos International School  
24 in Taos be approved, with provisions that must be  
25 completed pursuant to the Charter School Act and

1 will become material terms in the charter school  
2 performance contract. The PEC may identify other  
3 potential material terms which will be part of the  
4 performance contract negotiation process.

5 The basis for this recommendation is  
6 stated in the Charter School Division's Application,  
7 Final Recommendation and Evaluation for the school,  
8 which is located in the PEC document notebook under  
9 Tab 8N. The statutory provisions that must be  
10 completed by Taos International School in Taos are:

11 1. Planning Year Checklist. The  
12 applicant will complete the 2012-13 planning year  
13 checklist, as developed by the CSD, according to the  
14 time lines set forth therein, which shall include  
15 regular progress reporting to CSD.

16 2. Board of Finance designation. The  
17 governing body of the charter school must submit an  
18 application to the Public Education Commission to be  
19 designated as a Board of Finance, pursuant to  
20 6.80.4.16 NMAC, on or before the end of its planning  
21 year, June 30, 2013.

22 The applicant acknowledges that it shall  
23 not receive any state or federal funding, if  
24 available, until such time as it has been granted  
25 Board of Finance status by the Public Education

1 Commission.

2 3. Public Schools Facility Authority,  
3 PSFA, certification of facilities. The charter  
4 school will demonstrate to the Charter School  
5 Division that, prior to commencing operations, that  
6 it has sought and obtained certification from the  
7 PSFA that the facility the charter school intends to  
8 occupy will receive a weighted New Mexico Condition  
9 Index, wNMCI, rating equal to or better than the  
10 average condition for all New Mexico public schools  
11 for the year the charter intends to occupy the  
12 facility, or the charter school can demonstrate  
13 that, within 18 months of occupancy, that it has a  
14 plan for achieving the wNMCI.

15 And this is pursuant to 22-8B-4.2(C) 2011,  
16 New Mexico Statutes 1978.

17 4: Performance contract. The charter  
18 shall be effective upon the applicant and the Public  
19 Education Commission negotiating and signing the  
20 performance contract, pursuant to 22-8B-9,  
21 New Mexico Statutes 1978.

22 5. Commencement of operations. Prior to  
23 the end of the planning year, June 30, 2013, the  
24 charter school shall demonstrate that it has  
25 completed the above provisions stated herein, or by

1 operation of law, before commencing full operation  
2 for the remainder of the term, pursuant to  
3 #22-8B-12, New Mexico Statutes 1978.

4 Mr. Chair, that is the Charter School  
5 Division's recommendation.

6 THE CHAIR: Thank you, Ms. Callahan.  
7 Applicants, please introduce yourselves and give us  
8 your titles for the record.

9 MS. VIGIL: I'm Nadine Vigil. I'm the  
10 lead organizer for Taos International School.  
11 Founder Dr. Carlos Pagan cannot be here due to a  
12 family emergency. And Mr. Michael Vigil is here as  
13 our business manager.

14 THE CHAIR: Good morning. you have  
15 15 minutes to respond and present.

16 MS. VIGIL: First of all, I'd like to  
17 thank the Public Education Department Charter School  
18 Division for the recommendation that was made with  
19 conditions, approved with conditions. We will work  
20 closely with the Department and assure that these  
21 conditions will be taken care of.

22 Taos International School will be within  
23 the boundaries of Taos Municipal School District in  
24 Taos, and it is a great opportunity for our students  
25 from Taos to have another choice. The -- it'll be a

1 dual-language International Baccalaureate program,  
2 with offering a third language, which will be  
3 Mandarin Chinese. It will be a replica of the very  
4 successful schools that are now in Albuquerque  
5 New Mexico, New Mexico International School, and  
6 Corrales International School.

7 THE CHAIR: Does that conclude your  
8 presentation?

9 MS. VIGIL: Yes.

10 THE CHAIR: Excellent. Thank you very  
11 much. Commissioners, questions or comments? The  
12 floor is open. Commissioner Carr, we'll begin with  
13 you.

14 COMMISSIONER CARR: I applaud your  
15 application for the new school. However, I have  
16 reservations in regards to the fact that Taos  
17 already has -- does have five charter schools, which  
18 gives our students a great deal of choice. They  
19 already have a K-through-5, dual-language program in  
20 existence, and plan to add Mandarin at Ranchos, I  
21 think, either next year, or at least the same year  
22 that this school would start.

23 There are many fine charter schools in the  
24 state. Albuquerque has a wide range and has a large  
25 population. They can offer many specialized

1 schools, and maybe -- may or may not have the -- you  
2 know, the interest -- and the school district may  
3 disagree -- but, you know, can absorb schools like  
4 this much better.

5 Also, I mean, one of the schools that we  
6 approved with conditions in the last two days was  
7 offering an at-risk program in the South Valley of  
8 Albuquerque, and there's a lot of programs like  
9 that.

10 In Taos, what we've seen, in effect -- and  
11 I'll mention a word maybe you all have not heard for  
12 a while -- de facto segregation. And, whereas, we  
13 may have many schools where students go to -- you  
14 know, to get access to things that, you know, maybe,  
15 as poor children, they do not have access to,  
16 at-risk children and that sort of situation, in  
17 Taos, we've seen not all, but, you know, a lot of  
18 people going to the charter schools, where the  
19 majority of the children are Anglo. And in our  
20 community, which is -- prides itself on its  
21 relationships between Anglos, Native Americans,  
22 Hispanics, and, of course, we have small  
23 representations of everybody else of all cultural  
24 groups, I -- that is not one of the issues that we  
25 can deny on, but that is also a concern.



1 By main objection is that it is not  
2 something that's not already being offered by the  
3 local school district.

4 MS. VIGIL: In regards --

5 THE CHAIR: Commissioner Carr, did you  
6 have a question for the applicant, or it's just a  
7 comment?

8 COMMISSIONER CARR: No, it's just a  
9 comment.

10 MS. VIGIL: Can I address the comment,  
11 or --

12 THE CHAIR: No. Commissioner Shearman,  
13 let's -- let's try to get the applicant involved  
14 with maybe questions, if you have questions, because  
15 I know I even did it. We make these comments, and  
16 then they go nowhere, and you're dying, chomping at  
17 the bit wanting to respond. This is question  
18 period. Let's ask questions of the applicant.  
19 Commissioner Shearman.

20 COMMISSIONER SHEARMAN: I have a comment.

21 THE CHAIR: Okay.

22 COMMISSIONER SHEARMAN: But I'll try to  
23 have a question. To build on what Commissioner Carr  
24 said, looking at the information that the Charter  
25 School Division has provided us with -- with this

1 year -- and we very much appreciate it -- there are  
2 12 schools currently in Taos. Seven are traditional  
3 public schools; five are charters; three of those  
4 are State charters.

5 As I looked at enrollment in charter  
6 schools in Taos, there's one school that does not  
7 have an enrollment cap listed. I don't -- perhaps  
8 it's an old one, whatever. But of the four  
9 remaining charter schools, they have a combined  
10 enrollment cap of four -- of 740 students. In those  
11 four schools, currently, there are 471 students  
12 enrolled. That leaves 269 vacant slots in charter  
13 schools in Taos currently. Some of these schools  
14 actually show very large wait lists. However, the  
15 enrollment numbers provided by the Charter School  
16 Division show a very different story.

17 It appears to me, though, that with those  
18 numbers and the numbers of -- of schools in Taos and  
19 the number of students slightly over 3,000, that the  
20 purpose of the Charter Schools Act is being met in  
21 Taos, that there is flexibility; there is  
22 innovation; there is programs being offered that  
23 include individualized instruction, math, science,  
24 and art, focused programs, parental involvement,  
25 technology, online learning, project learning, just

1 to name a few.

2 I do believe that Taos parents and  
3 students do have an educational alternative, that  
4 there are slots available for additional schools in  
5 the current charter school -- pardon me -- slots  
6 available for additional students in the current  
7 charter schools, and that there is no need for an  
8 additional charter school in Taos.

9 THE CHAIR: So let me interject -- thank  
10 for you that comment. I'm not trying to diminish  
11 the Commissioners' opportunity to comment. But we  
12 do have a discussion period that I ask after a  
13 motion has been seconded. And so that discussion  
14 period is -- is timed for you all to make comments,  
15 if you so wish. Does that make sense? That's  
16 probably what we should have been doing since the  
17 beginning.

18 Any other questions? Seeing none, the  
19 Chair will entertain a motion. Commissioner Carr.

20 COMMISSIONER CARR: I would make a motion  
21 at this time that we deny the application of Taos  
22 International School. And I'll read through -- all  
23 of these may not apply. But overall, the  
24 application is either incomplete or inadequate, or,  
25 during the capacity interview, the applicants did

1 not sufficiently demonstrate the experience,  
2 knowledge, and competence to successfully open and  
3 operate the charter school.

4 THE CHAIR: Do me a favor, Commissioner.  
5 Move that microphone more towards you and read just  
6 a little bit more slow. Thank you, sir.

7 COMMISSIONER CARR: And the Charter  
8 Schools Act, in paragraph 16, Subsection L, Section  
9 22-8B-6 NMSA 1978, states that, "A chartering  
10 authority may approve or" -- "approve, or approve  
11 with conditions, or deny an application. The  
12 chartering authority may deny an application if" --  
13 and, again, I'll refer to No. 5: "The application  
14 is otherwise contrary to the best interests of the  
15 charter school's projected students, the local  
16 community, or the school district in whose  
17 geographic boundaries the charter school applies to  
18 operate."

19 COMMISSIONER SHEARMAN: Second.

20 THE CHAIR: There's a motion; there's a  
21 second by Vice Chair Shearman. Now, is there any  
22 discussion? Commissioner Bergman.

23 COMMISSIONER BERGMAN: Actually, I might  
24 add -- Commissioner Shearman, were you concluded  
25 with your --

1 COMMISSIONER SHEARMAN: Yes, sir, I was.

2 COMMISSIONER BERGMAN: Right now, I'm  
3 thinking this is more of a comment. I do have some  
4 reservations about this. In the new rubric that the  
5 CSD is using, where they're scoring these  
6 applications, your overall score was a good score.  
7 But the area of your application that received the  
8 lowest score and was the weakest was the education  
9 plan and academic framework, where you only scored  
10 73-and-a-half points out of 96 possible points.  
11 And, to me, that's the area that's the core of any  
12 school is the education and the academic framework.  
13 So that concerns me a little bit.

14 And, then, as I read through their  
15 analysis and their explanations, they just -- in  
16 that area, they just -- CSD made just a few general  
17 comments. They noticed that there was a -- the  
18 academic goals that were provided would provide an  
19 adjustment in target dates for achievement during a  
20 contract negotiation process. And it indicated that  
21 some goals, you did not provide. And they state  
22 that goals not provided would require development  
23 based on the information included in the narrative.

24 And they further went on to say that --  
25 that some of the time lines for the development of

1 instructional program were vague and lacking in  
2 detail. And down at the bottom, they said the  
3 education plan, as written, is uneven. Those  
4 concern me; that just concerns me.

5 And as I looked at the Recommendations  
6 statement from the CSD, it does state there that,  
7 "We may identify other potential conditions and  
8 apply them." But I noticed CSD did not put forward  
9 any conditions as a part of their recommendation  
10 addressing these kind of specific issues.

11 And I guess right now, the question I  
12 would have -- am I allowed to ask Director Callahan  
13 a question, or is it strictly to the applicant?

14 THE CHAIR: We're in discussion. We had  
15 questions earlier in the --

16 COMMISSIONER BERGMAN: Okay.

17 THE CHAIR: -- Public Education  
18 Commissioner question period.

19 COMMISSIONER BERGMAN: Okay. We're past  
20 questions. Okay, no questions. So I do have those  
21 concerns. And I know, under the new SB 446, that  
22 contracts are now going to be negotiated. But I  
23 think some of these conditions, it's imperative that  
24 we don't wait until the contract negotiation process  
25 to decide what the conditions are going to be

1 imposed to answer these kinds of questions. That  
2 needs to be done in this setting and with this  
3 recommendation at this time.

4 So that's the comment that I want to make.  
5 Thank you, Mr. Chairman.

6 THE CHAIR: I do want to clarify -- thank  
7 you, Commissioner Gant -- that the motion is for  
8 denial that's on the floor now that was seconded.  
9 So we are discussing --

10 COMMISSIONER BERGMAN: Okay.

11 THE CHAIR: We're going to make a decision  
12 on that motion for denial. Commissioner Lopez.

13 COMMISSIONER LOPEZ: I have a comment.  
14 Just to say that I am going to support this motion.  
15 I was frankly surprised that this got a  
16 recommendation to be approved after the hearing. I  
17 thought there was -- it appeared to me to be a whole  
18 lot of problems, including what Commissioner Bergman  
19 is raising and some things about the budget. I was  
20 really surprised. And I went to every hearing, and  
21 this one, I was surprised to see it.

22 So I'm not going to support this motion.  
23 I mean, I am going to support the motion to deny.  
24 Thank you.

25 THE CHAIR: The one community piece that

1 was just glaring for me was that charter school  
2 enrollment, as a percentage of district enrollment,  
3 is 27 percent. Not that that's good or bad. This  
4 is allowing choice. But it's currently 27 percent  
5 of total enrollment of that district.

6 So Taos is unique, in that you don't see  
7 these numbers anywhere else in New Mexico. But it's  
8 happening in Taos. And so it just makes me wonder  
9 what -- at what point is an LEA obsolete and  
10 diminished to the point where you have empty  
11 facilities. I mean, do the charter schools get to  
12 pay -- to pay rent or lease those -- those  
13 facilities that are empty because the district  
14 doesn't have children?

15 That had no bearing on the judgment of the  
16 application. But I just wanted to make that  
17 comment, that we really did look at all aspects of  
18 the charter application's prospective impact on such  
19 a small community. And I believe the Taos Schools  
20 are a -- charter schools are a B, a B, and a C. And  
21 as Commissioner Shearman stated, they are not fully  
22 enrolled. They're not at capacity --

23 COMMISSIONER SHEARMAN: That's right.

24 THE CHAIR: -- right now. So just  
25 interesting things to consider. Any other



1 discussion? Seeing none, we will proceed with the  
2 roll-call vote through Secretary Gant.

3 COMMISSIONER GANT: Commissioner Peralta.

4 COMMISSIONER PERALTA: Yes.

5 COMMISSIONER GANT: Commissioner Canfield.

6 COMMISSIONER CANFIELD: Yes.

7 COMMISSIONER GANT: Commissioner Bergman.

8 COMMISSIONER BERGMAN: Yes.

9 COMMISSIONER GANT: Commissioner Lopez.

10 COMMISSIONER LOPEZ: Yes.

11 COMMISSIONER GANT: Commissioner Carr.

12 COMMISSIONER CARR: Yes.

13 COMMISSIONER GANT: Commissioner Pogna.

14 COMMISSIONER POGNA: Yes.

15 COMMISSIONER GANT: Commissioner Shearman.

16 COMMISSIONER SHEARMAN: Yes.

17 COMMISSIONER GANT: Commissioner Garrison.

18 THE CHAIR: No.

19 COMMISSIONER GANT: Commissioner Gant

20 votes yes. It's eight-one in favor.

21 THE CHAIR: Eight-one. The motion passes,  
22 and the application for the Taos International  
23 School is denied. Thank you for all your hard work.

24 MS. VIGIL: Thank you.

25 THE CHAIR: The Chair is going to call a

1 ten-minute break. Will that suffice, or do you need  
2 more? Ten minutes? Okay. Just to -- just to  
3 de-stress a little bit. We're in recess.

4 (Recess taken, 10:30 a.m. to 10:45 a.m.)

5 THE CHAIR: The meeting is back in  
6 session. Item No. 9 is the Approval of a Draft  
7 Document for the Performance Framework and  
8 Performance Contracts.

9 In the way of background, SB 446 was  
10 legislation passed in 2011, which amended the  
11 Charter School Act to increase accountability for  
12 charter schools and authorizers. This was the most  
13 significant change in charter school law since the  
14 Charter School Act was passed in 1999. The current  
15 law is ranked as the fourth strongest charter school  
16 law in the country by the National Alliance for  
17 Public Charter Schools.

18 SB 446 has two main components: The  
19 charter school's performance contract, and the  
20 performance framework. 22-8B-9 and 22-8B-9.1 NMSA  
21 1978.

22 In January 2012, the CSD received an  
23 in-kind grant from the National Association of  
24 Charter School Authorizers, NACSA, to assist the  
25 Charter School Division in creating the documents to

1 meet the terms of SB 446. New Mexico is one of  
2 several states who were implementing similar  
3 accountability performance contracts and frameworks.

4 The CSD and the NACSA consultants have  
5 created the drafts before you after many early  
6 drafts and input from various stakeholder groups.  
7 Please note these documents are not in final  
8 formatting. NACSA and CSD will design copy-ready  
9 final documents -- excuse me -- for presentation  
10 quality.

11 Introductory training to the SB 446  
12 contract and frameworks has been held for  
13 authorizers and charter schools. The purpose of the  
14 training was to provide information regarding the  
15 implementation of SB 446 and to get feedback about  
16 the early draft documents. The PEC received the  
17 SB 446 training on the contracts and frameworks on  
18 August 8 of 2012. The charter  
19 schools/authorizers -- charter schools, slash,  
20 authorizers -- impacted by SB 446 are new charter  
21 applications and charter renewals approved after  
22 July 1, 2012.

23 New charter applications approved at this  
24 meeting need a preliminary contract for their  
25 planning year. Since there are no students or

1 school information, negotiating the full performance  
2 contract will not be effective. The full contract  
3 may be negotiated in the spring, as the new charter  
4 school approaches approval for commencement of  
5 operations or when the PEC determines. Charters  
6 submitting renewal applications October 1, 2012, who  
7 are approved by the PEC will negotiate their  
8 2013-2014 contracts after the PEC meeting in  
9 December, within 30 days after approval. The  
10 renewal char- -- excuse me -- the renewal charter  
11 schools, existing charters end June 30th, 2012.

12 Next steps:

13 1. The PEC has copies of the most current  
14 drafts of the performance contract and performance  
15 frameworks in their notebooks.

16 2. We request that the PEC approve at  
17 today's meeting the above drafts for public  
18 consultation and comment between September and  
19 November. And there is a proposed motion at the top  
20 of this page.

21 A. The CSD has tentatively scheduled  
22 dates pending PEC approval for public consultation  
23 and comment meeting, November 2nd and 3rd,  
24 New Mexico Coalition of Charter Schools State  
25 Conference, as part of the PED/CSD presentation,

1 PSC -- PEC working group for consultation and  
2 comment, period.

3 November 15, Las Cruces PEC working group  
4 for consultation and comment. If PEC members can be  
5 present at the working group sessions, that will be  
6 beneficial. We can post the meetings if there is a  
7 chance of a quorum being present.

8 The NACSA national conference in Memphis,  
9 Tennessee, will have sessions with the participating  
10 states that are developing performance contracts and  
11 frameworks. This will be an opportunity to network  
12 and collaborate on common development and  
13 implementation issues in terms of charter school  
14 accountability.

15 The CSD and NACSA team will take input and  
16 comments and incorporate it into a final draft that  
17 will be submitted to the PEC at the December 13  
18 through 15th meeting, 2012, for final approval. The  
19 monitoring tools and process will be developed by  
20 the CSD for implementation in July 2013.

21 The CSD will submit a report, as required  
22 by 22-8 B-17.1 NMSA 1978, to the Governor,  
23 Legislative Finance Committee, and the Legislation  
24 Education Study Committee after review and approval  
25 by the PEC and Secretary Designate of Education.

1 The report will include:

2 A. Comparison of the performance of  
3 charter school students with the performance of  
4 academically, ethnically, and economically  
5 comparable groups of students in noncharter public  
6 schools.

7 And, B. Assessment of successes,  
8 challenges, and areas of improvement in meeting the  
9 purpose of the Charter School Act, sufficiency of  
10 funding for charter schools, efficacy of the State  
11 Funding Formula for chartering authority funding,  
12 and suggested changes to State law or policy  
13 necessary to strengthen the State's charter schools.

14 Annual site visits by the CSD to all PEC  
15 authorized schools will take place in fall 2012,  
16 spring 2013, to provide technical assistance and  
17 progress monitoring.

18 Then the floor is open for discussion or  
19 comments by Commissioners. Commissioner Bergman.

20 COMMISSIONER BERGMAN: I note at the  
21 bottom of the first page, where you read that the  
22 first tentatively scheduled dates for these public  
23 consultation meetings -- it says November 2nd and  
24 3rd, the New Mexico Coalition of Charter Schools,  
25 but it doesn't say where that will be. Has it not

1 been determined yet? The other one, you say it's  
2 going to be in Las Cruces on the 15th.

3 MS. CALLAHAN: Mr. Chair, Commissioner  
4 Bergman, the conference takes place in Albuquerque,  
5 and it has every year. So I apologize for that  
6 oversight.

7 COMMISSIONER BERGMAN: No. I'm probably  
8 supposed to know stuff like that. In this case, I  
9 didn't. Now, we're already scheduled to meet on  
10 November 1st and 2nd is our next meeting.

11 THE CHAIR: I believe we usually have that  
12 in Albuquerque for that reason.

13 COMMISSIONER BERGMAN: Oh. Have we been  
14 doing that in the past?

15 MS. CALLAHAN: I believe -- Mr. Chair,  
16 Commissioner Bergman, I believe the conference is a  
17 natural place to have this next meeting. And so we  
18 wanted to tie it to that so that we could get, as  
19 Commissioner Garrison -- as Chair Garrison read, we  
20 want the PEC to be involved in these work groups and  
21 to hear this input from the pub- -- the  
22 stakeholders, the charter schools, the authorizers,  
23 and other interested parties, communities, district,  
24 et cetera. And so we want to try and make it as  
25 convenient as possible for you all to participate,

1 if you are intending to attend the charter school  
2 conference.

3 COMMISSIONER BERGMAN: That's outstanding.  
4 That means I will be able to attend, since I'll be  
5 up for the meeting anyway. So that's what I was  
6 really trying to determine. Thank you.

7 COMMISSIONER POGNA: Mr. Chairman.

8 THE CHAIR: Commissioner Pogna.

9 COMMISSIONER POGNA: Mr. Chairman, will we  
10 receive information on this -- advance information  
11 on this? Is this a conference?

12 MS. CALLAHAN: Mr. Chair, Commissioner  
13 Pogna, that's correct. It is the State charter  
14 school conference.

15 COMMISSIONER POGNA: Yes.

16 MS. CALLAHAN: And I believe that the  
17 registration -- and, actually, Mr. Vigil is here.  
18 Is the registration open for the conference?

19 MR. M. VIGIL: Yes. But historically,  
20 we've invited the Public Education Commission to  
21 attend as a VIP to our conference. And it's the 2nd  
22 and the 3rd at the Mariott Pyramid in Albuquerque.

23 THE CHAIR: Thank you, Mr. Vigil.

24 MS. CALLAHAN: So, Mr. Chair, Commissioner  
25 Pogna, the PEC then is invited to attend this



1 conference. And just to put some information in  
2 context around what's happening, the CSD and the  
3 consultants that we work with are going to be doing  
4 sessions at the conference. And we've built into  
5 those sessions time for work group input.

6 And so that -- so it's all tied together.  
7 And it makes sense, so we can roll out the drafts of  
8 the forms. We're going to get these out to the  
9 schools and the districts as soon as possible, if  
10 these are approved today, so people can have a  
11 chance to digest what's going on and bring good  
12 feedback so we can get an adequate amount and -- you  
13 know, information that we need to really tighten up  
14 these forms, make sure they're appropriate for  
15 New Mexico and the laws.

16 COMMISSIONER POGNA: Mr. Chairman.

17 THE CHAIR: Commissioner Pogna.

18 COMMISSIONER POGNA: Finish off. Will we  
19 be sent an agenda? Will we be sent -- will the PEC  
20 receive any information in advance, as far as  
21 agenda, et cetera?

22 MS. CALLAHAN: Mr. Chair, Commissioner  
23 Pogna, yes. We will -- we'll make a point of  
24 getting the information from the Coalition and  
25 disseminate it to the Public Education Commission,

1 because they have -- it's a wonderful conference, in  
2 that there's strands for leadership, governance,  
3 instruction. And now we have a strand on 446. They  
4 have information about facilities. So I think it  
5 really is -- and it's very well attended, usually,  
6 400 to 500 -- 400 people from the state and the  
7 charter organizations. So, yes, we will make sure  
8 that the information is forwarded to you all.

9 THE CHAIR: Thank you, Ms. Callahan. Any  
10 other comments, Commissioner Bergman?

11 COMMISSIONER BERGMAN: Yes. So they will  
12 be coordinated so we're not sitting in our regular  
13 PEC meeting at that thing while the workers are  
14 meeting at the very same time somewhere else; right?

15 MS. CALLAHAN: Mr. Chair, Commissioner  
16 Bergman, that's not what's supposed to happen. No,  
17 sir. The meeting actually is before the conference.  
18 And the strands -- and there's actually two sessions  
19 that are the same offered by CSD to -- so there's  
20 one on Friday, one on Saturday. So there's  
21 opportunity for people who are attending other maybe  
22 leadership strands or government strands so they can  
23 attend the working group. So they will have an  
24 adequate opportunity for input for you all as well.

25 COMMISSIONER BERGMAN: Excellent. Thank

1 you.

2 THE CHAIR: Commissioner Shearman.

3 COMMISSIONER SHEARMAN: Could I -- I just  
4 have one question about the performance framework  
5 itself. It's over on Page 6 in the financial  
6 performance framework. And as I read through  
7 this -- and I know there's -- there's some  
8 explanation here. But where you're using the ratios  
9 in the -- in the section where you're rating  
10 "meets," "does not meet," and those sorts of things,  
11 "Current ratio is greater than or equal to 1.1."

12 I know that you have people who really  
13 understand all the financial business did this, and  
14 they're the ones who came up with this standard.  
15 But is there going to be an explanation for  
16 nontechnical folks, too?

17 MS. CALLAHAN: Mr. Chair, Commissioner  
18 Shearman, starting with the Interim Director of the  
19 Charter School Division, who needs the guidance as  
20 well, it's -- it has gone through accountants; it's  
21 gone through the Public Education Department  
22 financial and budget analysts. And what we are in  
23 the process right now of developing is a guidance  
24 document that will walk through all three  
25 frameworks.

1           And, yes, there will be a non-accountant's  
2 explanation of what these mean and what schools need  
3 to do to achieve this performance level. The one  
4 thing I do want to just assure you is that the --  
5 the group from NACSA and the budget analysts here  
6 ran numbers, actual numbers, for the schools. We  
7 took ten sample schools. And the number -- it --  
8 it -- the design of the report that comes through is  
9 very clear. You can see schools that are trending  
10 and in positive. It's very easy. And all of that  
11 will come out in the guidance document when we do  
12 the oversight tools and the development.

13           So I think it'll be pretty clear to  
14 anybody, once you see the report based on these  
15 frameworks, how well a school is performing or not  
16 performing. And it's very evident in the ten  
17 schools that we reviewed that were the pilot schools  
18 or the sample schools.

19           COMMISSIONER SHEARMAN: Okay. Thank you.

20           THE CHAIR: Any other comments or  
21 questions? Mr. Canfield? No?

22           COMMISSIONER CANFIELD: Move to adopt.

23           COMMISSIONER SHEARMAN: Second.

24           THE CHAIR: Do we need to hear the full  
25 motion? Legal counsel?

1 MR. R. VIGIL: Is there --

2 THE CHAIR: It's on the front of the  
3 agenda item, Executive Summary, Roman numeral III.

4 COMMISSIONER CARR: Oh, yeah.

5 THE CHAIR: Commissioner Canfield, would  
6 you just go ahead and read that.

7 MR. R. VIGIL: I think, for the record, I  
8 believe it should.

9 COMMISSIONER CANFIELD: Mr. Chair, I'd be  
10 happy to.

11 THE CHAIR: Thank you, sir.

12 COMMISSIONER CANFIELD: I move to approve  
13 the drafts of the charter performance contract and  
14 charter performance frameworks for public  
15 stakeholder consultation and comment before the  
16 final PEC approval at the December 13 and 14, 2012,  
17 PEC meeting.

18 COMMISSIONER BERGMAN: Second.

19 THE CHAIR: And that was seconded by  
20 Commissioner Bergman. Is there any discussion?  
21 Ms. Callahan?

22 MS. CALLAHAN: Mr. Chair, Commissioners,  
23 if I may, the -- the drafts of the paperwork in  
24 front of you was printed. And NACSA has requested  
25 that I read this statement into the record. Because

1 they are helping us and using proprietary templates,  
2 if I can read this, and these will be included in  
3 the drafts, then, that will be sent out? If I may?

4 THE CHAIR: Sure.

5 MS. CALLAHAN: This, again, is from the  
6 National Association of Charter School Authorizers.  
7 And it says that this document -- means the  
8 framework document -- carries a Creative Commons  
9 license, which permits noncommercial reuse of  
10 content when proper attribution is provided. This  
11 means you are free to copy, display, and distribute  
12 this work, to include content from the application  
13 in derivative works under the following conditions:

14 Attribution. You must clearly attribute  
15 the work to the National Association of Charter  
16 School Authorizers and provide a link back to the  
17 publication at the Web site,  
18 [www.qualitycharters.org](http://www.qualitycharters.org).

19 Noncommercial. You may not use this work  
20 for commercial purposes, including, but not limited  
21 to, any type of work for hire without explicit prior  
22 permission from NACSA.

23 Share-alike. If you alter, transform, or  
24 build upon this work, you may distribute the  
25 resulting work only under a license identical to

1 this one. For a full legal code of this Creative  
2 Comments license, please visit  
3 [www.creativecomments.org](http://www.creativecomments.org). If you have any questions  
4 about citing or using NACSA content, please contact  
5 us.

6 And just to clarify, we are free to edit  
7 and do whatever it is that we need to do. If you --  
8 if you looked at previous iterations of this  
9 document, it was very different in April when we  
10 started, to what we have now, because of what is  
11 necessary for New Mexico law to meet the  
12 requirements. From input that we've received, the  
13 preliminary input from the various stakeholders,  
14 we've made changes.

15 The group that has been working on it --  
16 and I'd like to recognize Rochelle Cherrin, who is  
17 an Educational Administrator from CSD, and Julia  
18 Barnes, who is a consultant, who is hired by the  
19 CSD, who have worked in conjunction with the NACSA  
20 consultants.

21 And so we -- we are not bound to the  
22 absolute language of this. We are free to do it --  
23 what this does is protects that proprietary -- the  
24 look and the formatting and everything like that so  
25 we can have credit. I did speak to the -- our

1 consultant that we're working with at NACSA. And we  
2 can absolutely change, update, create, whatever it  
3 is that we need to do to make this document usable  
4 for New Mexico and for the Public Education  
5 Commission.

6 THE CHAIR: Understood. Thank you.  
7 Commissioner Bergman.

8 COMMISSIONER BERGMAN: In response to what  
9 you just said, Director, I would like a copy of what  
10 you just read for my file. I don't see it in the  
11 materials. So I don't know if the other  
12 Commissioners want it, but I would like to have a  
13 copy of that for my file. I don't want to get it  
14 out of the minutes.

15 MS. CALLAHAN: Mr. Chair and Commissioner  
16 Bergman, absolutely. I received this late -- or  
17 early morning yesterday. And so I will e-mail and  
18 forward this to you all so you can include it in the  
19 documents. And anything that we print or send to  
20 the schools, we'll have this as well.

21 COMMISSIONER BERGMAN: Thank you.

22 THE CHAIR: Perfect. Other comments? We  
23 will proceed with the roll-call vote with  
24 Commissioner Gant.

25 COMMISSIONER GANT: Don't wake me up.



1 Commissioner Peralta.

2 COMMISSIONER PERALTA: Yes.

3 COMMISSIONER GANT: Commissioner Canfield.

4 COMMISSIONER CANFIELD: Yes.

5 COMMISSIONER GANT: Commissioner Bergman.

6 COMMISSIONER BERGMAN: Yes.

7 COMMISSIONER GANT: Commissioner Lopez.

8 COMMISSIONER LOPEZ: Yes.

9 COMMISSIONER GANT: Commissioner Carr.

10 COMMISSIONER CARR: Yes.

11 COMMISSIONER GANT: Commissioner Pogna.

12 COMMISSIONER POGNA: Yes.

13 COMMISSIONER GANT: Commissioner Shearman.

14 COMMISSIONER SHEARMAN: Yes.

15 COMMISSIONER GANT: Commissioner Garrison.

16 THE CHAIR: Yes.

17 COMMISSIONER GANT: Commissioner Gant

18 votes yes. Nine-oh in favor.

19 THE CHAIR: Unanimously, the drafts of the  
20 charter performance contract and charter performance  
21 frameworks are approved.

22 Item 10 is the Charter School Division  
23 Report on Southwest Learning Center. In way of  
24 background, in May 2012, the PED received a letter  
25 from Albuquerque Public Schools regarding a student

1 who obtained credit from Southwest Secondary  
2 Learning Center, SSLC or SWLC, period. PED  
3 responded to APS and SSLC that the PED would review  
4 the claims from Albuquerque Public Schools.

5 The Public Education Department Audit  
6 Manager, Craig Johnson, did a program review of the  
7 Southwest Secondary Learning Center. The Public  
8 Education Commission was informed of the audit and  
9 requested that the Charter School Division follow up  
10 to the specific questions provided by the Public  
11 Education Commission.

12 The Charter School Division General  
13 Manager and Audit Manager reviewed the report and  
14 went through all of the Commissioners' questions to  
15 determine if the Public Education Department report  
16 answered any of the Commissioners' questions.  
17 Italicized comments in black in response to  
18 Commissioner questions are from the July 19, 2012,  
19 PED report and Charter School Division information  
20 and/or follow-up. Comments in red are from the  
21 Southwest Secondary Learning Center Head  
22 Administrator, Scott Glasrud, and are responses to  
23 the questions from Commissioners. The appendices to  
24 this report are from the Southwest Secondary  
25 Learning Center to document the responses to the

1 question.

2 Questions 27 through 33 of Mr. Gant's  
3 questions require inquiry to all charter schools. A  
4 survey by Survey Monkey went to all charter schools  
5 on August 16. We are -- the Charter School Division  
6 is awaiting the final results.

7 Ms. Callahan, did you want to do the  
8 summary of findings?

9 MS. CALLAHAN: Mr. Chair, if that -- if  
10 that's your pleasure, I can.

11 THE CHAIR: Sure. My voice is cracking a  
12 little bit; so, yes.

13 MS. CALLAHAN: Mine is, too. And just to  
14 clarify, Mr. Chair, and Commissioners, I apologize.  
15 There was supposed to be a color copy included in  
16 your notes. I will e-mail you the report that has  
17 the full color outlinings. I hope that you were  
18 able, at least, to discern the differentiation  
19 between Mr. Glasrud's and the PED comments. And if  
20 not, I do apologize for that.

21 The summary of findings in regards to the  
22 Charter School Division-Southwest Learning Center.

23 No. 1. There are no current written  
24 agreements between Southwest Secondary Learning  
25 Center and Albuquerque Public Schools. In the PED

1 audit inquiry, it was noted that many school  
2 districts and schools do not have this component  
3 required by 6.30.8 NMAC. Southwest Secondary  
4 Learning Center provided documentation from Sue  
5 Griffith and Maggie Lopez that serve as affidavits  
6 to verify that APS and Southwest Secondary Learning  
7 Center had a verbal agreement to allow APS students  
8 to take part in the SSLC's extended learning  
9 program. And that is in Appendix 5.

10 No. 2. Mr. Glasrud doesn't agree with the  
11 assertion that students outside of SSLC are not  
12 eligible to take distance learning courses from  
13 SSLC. He cites the renewal as written and -- as  
14 written and offers clarification and explanation  
15 regarding his interpretation of the charter's  
16 extended learning options for both Southwest  
17 Secondary students as well as other students from  
18 other schools and districts. That would be located  
19 under Commissioner Shearman's Questions 5A and 5B.

20 No. 3. The curriculum utilized by SSLC's  
21 extended learning program is e2020, a PED-approved  
22 online curricula, currently utilized by over  
23 50 schools and districts throughout New Mexico.

24 No. 4. Students who couldn't afford  
25 tuition were provided opportunity to attend the SSLC

1 extended learning program by tuition reduction or  
2 tuition paid by other organizations; for example,  
3 APS Indian Education.

4 5. No SEG funding is allocated to SSLC  
5 for their extended learning students. All tuition  
6 is utilized to pay teachers for work outside of  
7 their contract and for curriculum licensing.

8 Sub-letter A, Southwest Secondary collects  
9 \$15,000 to \$20,000 annually for tuition;

10 And, B, Mr. Glasrud states that  
11 99.9 percent of the students attend SSLC to take  
12 courses for graduation, meaning the extended  
13 learning courses.

14 No. 6. Students who didn't complete the  
15 course or courses in the Southwest Secondary  
16 extended learning program did not receive refunds  
17 unless there were extenuating circumstances, such as  
18 moving out of state. Mr. Glasrud notes that when a  
19 student registered, they had to receive a seat or  
20 license to participate in the e2020 curricula.  
21 E2020 provides a pacing guide, but students may  
22 access the curricula 24 hours a day, seven days a  
23 week.

24 Each course is considered a semester  
25 course. Students who are enrolled have three

1 months, plus an extension of two weeks, to complete  
2 the course, which is outlined in Appendix 7B.

3 However Mr. Glasrud notes that students may have  
4 access outside the time limits to complete a course,  
5 which is Question 11 for Mr. Gant's questions.

6 I just did a summary. I didn't go through  
7 every question, just some pertinent points that had  
8 come up from previous questions at other hearings.  
9 And the observations by the Charter School Division:

10 No. 1. There needs to be a clear  
11 direction by PED and authorizers as to meeting the  
12 regulation on distance learning for all charter  
13 schools and districts, as referenced in 6.30.8 NMAC.

14 A. The Distance Learning regulation and  
15 Cyber Academy Act need to be reviewed for updates  
16 that contemplate current technological pedagogical  
17 trends.

18 B. School districts and charter schools  
19 must have specific guidelines and agreements when  
20 setting up programs for students to earn credit  
21 outside of their regular school program.

22 C. This was a recommendation of the PED  
23 July 19 report.

24 And, 2, the need to define "material term  
25 of the charter" is needed in order for the Public

1 Education Commission and other authorizers to  
2 provide directed oversight and accountability for  
3 charter schools.

4 It's noted, in sub-Letter A, that SB 446,  
5 with the performance contract, will provide  
6 authorizers and charter schools a means to define  
7 "material terms" and the corrective action process  
8 for charter schools to employ, if necessary.

9 And that concludes the comments from the  
10 CSD.

11 THE CHAIR: Thank you, Ms. Callahan.

12 MS. CALLAHAN: I'm open to questions.

13 THE CHAIR: The floor is open for  
14 questions or comments. Commissioner Bergman.

15 COMMISSIONER BERGMAN: More of a comment,  
16 I guess. I am not certain that the performance  
17 contracts, as they evolve and we're going to be  
18 done, is totally going to be adequate to address  
19 everything that is a material term. I'm not -- for  
20 instance, from what I've looked at, it doesn't look  
21 like it might cover everything.

22 So we need to be careful that we don't  
23 just tie ourselves to the performance contract for  
24 what is a material term. We need to be absolutely  
25 certain that we don't leave something out and find

1 out down the road, where somebody says, "Well, it's  
2 not in the performance contract, so we're going to  
3 move from point A to point B, because it isn't in  
4 the performance contract." That is something we  
5 need, as a Commission, to be very, very careful in.

6 THE CHAIR: Thank you Commissioner  
7 Bergman. Vice Chair Shearman.

8 COMMISSIONER SHEARMAN: Thank you,  
9 Ms. Callahan, for that report. There -- I think  
10 we've all asked our questions. I know I still have  
11 many questions and concerns in my mind. But I'm  
12 certainly not going to bring those up today. I  
13 think the time for what I'm concerned about will be  
14 better addressed during renewal time.

15 But I just want to ask -- in your report,  
16 you stated that SSLC said they take in between  
17 \$15,000 and \$20,000 a year on these extended  
18 learning classes, credit recovery.

19 I'm looking at the letter from Albuquerque  
20 Public Schools that Winston Brooks sent on May the  
21 16th. And in that, he states, "Since learning of  
22 this issue, we've researched our transcripts and  
23 found that more than 289 APS students have earned  
24 387 credits so far this school year from Southwest  
25 Secondary Learning Center."



1           Three hundred eighty-seven credits at the  
2           minimum of \$200 a credit is \$77,400. That's a  
3           significant difference between \$15,000 to \$20,000.  
4           So perhaps I'm not looking at it correctly. But it  
5           does seem there's a big discrepancy there.

6           There is one more thing that wasn't  
7           necessarily brought up in this -- this investigation  
8           that I would like to ask you about. And maybe you  
9           can throw -- shed some light on it. In the  
10          information you gave us, the census report and all  
11          that information, the report shows that Southwest  
12          Secondary has an enrollment of 280 students. They  
13          have an enrollment cap of 500.

14          And I remember when they requested that  
15          enrollment cap increase. Actually, they had  
16          originally requested an enrollment cap of 800, and  
17          we negotiated it down to 500. And I seem to very  
18          clearly recall that Commissioner Gant asked, at that  
19          time, "Do you have the capacity for 500 students?"  
20          And I believe, if I recall again correctly, the  
21          answer was, "Yes."

22          Right now, they have 280 students  
23          enrolled, an enrollment cap of 500. That says, to  
24          me, they have 220 empty seats. How can they have a  
25          wait list of 3,322? Do you know how they figure

1 that?

2 MS. CALLAHAN: Mr. Chair, Commissioner  
3 Shearman, I'm going to have to get back to you. I'm  
4 not sure how they -- I wasn't here when they did the  
5 cap changes and everything. And so I'll have to --  
6 I didn't look that deeply into it. So I will look  
7 into it. I've written the question down. So I will  
8 get back to you on that.

9 COMMISSIONER SHEARMAN: I appreciate that.  
10 Thank you. That's all.

11 THE CHAIR: Thank you, Vice Chair  
12 Shearman. Any other comments before we move to the  
13 next item? Commissioner Gant.

14 COMMISSIONER GANT: Mr. Chair, members,  
15 yes, I have some comment. It's just -- I read  
16 through the comments. And some of it, I believe is  
17 a Texas two-step, beating around the bush, saying,  
18 "We don't have regulations, we don't have  
19 agreements." And that's a "so what."

20 So I think the "so what" better be that we  
21 get off our duffs and lock this thing down, because,  
22 you know, it seems out of place for me. Because we  
23 got students that, all of a sudden, the teacher  
24 taught the kid for how many times, couldn't pass an  
25 English course, but could go over there and do it in

1 56 hours? Come on. Let's get real. Let's get  
2 real.

3 Or they run over there to student  
4 athletes -- I call them "student athletes"; I was a  
5 jock, college and high school -- run over there for  
6 a few hours and get enough grades in the summertime  
7 so they can play in the following year.

8 So what's more important? Playing on a  
9 football team or getting an education? And I think  
10 this is an easy way for them to play football or  
11 whatever it is, and we've got to somehow get a  
12 handle on that. I just -- we're here to educate  
13 them to go out there in the world to get a job or go  
14 to higher education, not to play football and all --  
15 like I played it.

16 It got me to college. I support it. But  
17 "student" comes first; "athlete," maybe. So some of  
18 these answers -- and one of them that really got my  
19 goat was, "This is what the Commissioner really  
20 meant to ask." Don't tell me what I meant to ask.  
21 Thank you.

22 THE CHAIR: Don't apologize, Vice Chair  
23 Shearman.

24 COMMISSIONER SHEARMAN: Director Callahan,  
25 in your report, under the Summary of Findings, in

1 No. 4, and then again in No. 5, the word "tuition"  
2 is used. Is that correct?

3 MS. CALLAHAN: Mr. Chair, Commissioner  
4 Shearman, that's the term that was utilized by the  
5 Southwest Learning Center.

6 COMMISSIONER SHEARMAN: Isn't it illegal  
7 for charter schools to charge tuition?

8 MS. CALLAHAN: Mr. Chair, Commissioner  
9 Shearman, this is outside of the -- of the charter's  
10 SEG funding. And so they are not receiving funding  
11 for the students. And the way that I understand  
12 that, the law is that you cannot charge tuition to  
13 students to attend the school full time. This is  
14 the extended learning, outside of the thing. But  
15 probably that -- a legal interpretation may --

16 MR. R. VIGIL: Mr. Chairman, Commissioner  
17 Bergman -- Commissioner Shearman -- the law allows  
18 public schools to, for example, have a summer school  
19 offering and charge tuition for that, because it's  
20 outside of the regular program of that school.

21 They do that for secondary schools.  
22 Elementary schools, however, that offer summer  
23 school programs, must do that at no tuition. So  
24 there are some instances in which schools can offer  
25 a program and charge for that particular program.

1 COMMISSIONER SHEARMAN: Okay. Maybe I'm  
2 splitting hairs here. But this was during the  
3 school year. The money was used, as I understand  
4 it, to pay a teacher or teachers extra stipend  
5 during the school year. Some of the money was used  
6 to pay for the program that was used, the e2020, I  
7 assume computers, servers, all those kind of things  
8 that are part of the regular school program, the  
9 teacher teaches during the regular school program.

10 If students are able to log on 24 hours a  
11 day, seven days a week, and they log on during the  
12 school day, and the teacher logs on and responds to  
13 their question, is this outside the school parameter  
14 for tuition?

15 MR. R. VIGIL: Commissioner Shearman, I'm  
16 not sure. I don't know all the details of that  
17 particular program. I don't have the law  
18 immediately in front of me to parse it out. It's  
19 something that perhaps can be looked at to see how  
20 they're handling that, and to see if, in fact, it is  
21 something that is outside of the regular program.

22 COMMISSIONER SHEARMAN: Thank you. Thank  
23 you.

24 COMMISSIONER CARR: Mr. Chair -- and I  
25 might have some clarification for Commissioner

1 Shearman on that.

2 COMMISSIONER GANT: Get the mic closer.

3 COMMISSIONER CARR: Oh, sorry. What -- if  
4 we have teachers who review -- teachers are -- you  
5 know, are moving from Levels I, II, and III -- or  
6 from I and II up to III, they get paid for that  
7 based on the money that's paid when the teachers  
8 apply to move up, you know. And they are not  
9 allowed to do that work and log onto that computer  
10 and do that reviewing during their school day,  
11 because you're getting paid during that school day.

12 That doesn't address the tuition issue.  
13 But it does bring up another issue. If a teacher is  
14 doing that during the school day that they're  
15 already getting paid for, and they're getting extra  
16 pay for that, then that's a whole other thing. That  
17 is a violation.

18 COMMISSIONER SHEARMAN: Thank you.

19 THE CHAIR: Thank you Commissioner Carr.  
20 Other comments? Questions? Seeing none, we will  
21 move to Item No. 11, PEC Comments. Letter "a" is  
22 the PEC calendar. A copy of the PEC calendars for  
23 2012 -- well, I should say a copy of calendars for  
24 2012 and 2013 are provided to the Commissioners in  
25 your notebooks. At the November meeting, there will

1 be a discussion of PEC meetings for 2013.

2 Out-of-state travel by Commissioners. The  
3 following Commissioners will be traveling to  
4 national conferences in October:

5 To the National Association of State  
6 Boards of Education, Andrew Garrison and Gilbert  
7 Peralta. And to the National Association of Charter  
8 School Authorizers, Commissioners Eugene Gant and  
9 Carolyn Shearman. And I believe that's in  
10 parentheses, Commissioner Shearman is going to be  
11 paid for by the Charter School Division.

12 COMMISSIONER SHEARMAN: Thank you.

13 COMMISSIONER POGNA: Mr. Chairman.

14 THE CHAIR: And this is -- there's no  
15 action item on this, because I believe we're voting  
16 in November. But, Commissioner Pogna, do you have a  
17 question?

18 COMMISSIONER POGNA: No. I had a request.  
19 If there is any money left over, I would like to go  
20 to a conference. So what is the procedure? These  
21 have already been approved.

22 THE CHAIR: The procedure, the requests go  
23 through -- they go through me to Beverly. And I  
24 believe there wasn't money left over, because  
25 Carolyn Shearman was actually picked up by the

1 Charter School Division. And thank for you that.

2 And so there's no money left for this  
3 year. However, next year, there will be a new  
4 Chairperson, and we follow what's in our rules --  
5 what's in our Public Education Commission Rules of  
6 Procedure. So there's a rotation in the Rules of  
7 Procedure.

8 COMMISSIONER POGNA: All right. But  
9 the -- but the conference that I want to attend is  
10 in January. That's not -- that's preceding the new  
11 school calendar?

12 COMMISSIONER GANT: What conference is  
13 that?

14 THE CHAIR: What conference is that,  
15 Commissioner Pogna?

16 COMMISSIONER POGNA: Well, for years, I  
17 have attended the Education Policy Conference,  
18 except the past three years. And I would like to  
19 attend again, since I'm feeling better. And,  
20 anyway, I love the conference. It's a great  
21 conference. It's on education policy throughout the  
22 nation. We have state board members, local board  
23 members, a lot of teachers attending, Congressional  
24 people who tell us about Congressional legislation  
25 and education, great speakers. Last time I went, it



1 was Diane Ravitch was our speaker.

2 So, no, it's some -- it's a conference I  
3 have been attending, and I would like to go. But  
4 it's always in January, the end of January, if there  
5 is a possibility. Otherwise, I'll wait until the  
6 following year. It's an annual conference.

7 THE CHAIR: Okay. I consider this a tardy  
8 request, because we already went through the  
9 process.

10 COMMISSIONER POGNA: I was sick last time.

11 THE CHAIR: I understand. That's not the  
12 reasoning. It's just to move forward and get people  
13 to send them to conferences. But that sounds  
14 fascinating.

15 COMMISSIONER POGNA: It's a great  
16 conference.

17 THE CHAIR: It does. So get -- get that  
18 information together so we can -- so we can see what  
19 the -- what the list says for next year. I'm not  
20 going to put Secretary Gant on the spot. But there  
21 is a rotation. If you look at Page 14 of your Rules  
22 of Procedure, you see that.

23 COMMISSIONER SHEARMAN: But next year  
24 would be next fiscal year. Is that what we're  
25 talking about? Not calendar year?

1 THE CHAIR: Yes. So fiscal year is next  
2 July 1st, correct. So we have allocated our travel  
3 funds for Fiscal Year 2012-2013, for out-of-state  
4 travel.

5 MS. CALLAHAN: Mr. Chair, could I just  
6 give an update quickly about where we are in the  
7 process of this? Would that be appropriate, just so  
8 we can --

9 THE CHAIR: I think it would, yes,  
10 Ms. Callahan. Please proceed.

11 MS. CALLAHAN: Mr. Chair, Commissioners,  
12 we've been working -- the CSD has been working with  
13 Beverly to insure that the travel arrangements are  
14 done. So I'm just going to quickly go where we are.  
15 For the -- the NASBE conference, Chicago, Chairman  
16 Garrison and Commissioner Peralta. The flights have  
17 been ticketed, and you all should have received  
18 copies of your tickets.

19 Commissioner Shearman and Commissioner  
20 Gant, Memphis tickets are probably being purchased  
21 as we speak. The tickets were -- are going to be  
22 purchased. The PO was approved, and so we will have  
23 all the itineraries and everything out to you guys  
24 as soon as all that is finalized. We will e-mail  
25 the copies as well as have hard copies available

1 when we meet again.

2 And the NACSA registration for  
3 Commissioner Shearman has been confirmed, and Bev is  
4 taking care of Commissioner Gant's registration for  
5 NACSA. And, I believe, all the other registrations  
6 are in place. So we should be up to date.

7 If there's any other questions or  
8 concerns, you can either contact me or Bev. And  
9 we've been kind of partnering, because my Business  
10 Operations Specialist is phenomenal, Cordy. For  
11 those of you that traveled to the thing, she really  
12 has a handle. I think she's a travel agent in her  
13 previous life.

14 So -- but if there are concerns or  
15 anything that comes up, please let us know so we can  
16 handle it. There's a lot of -- this is meant with  
17 no disrespect. There's a lot of hoops to go through  
18 to get approvals and things if there's any changes.  
19 So if we can get as much forward warning, that would  
20 be very beneficial. So, anyway, thank you.

21 THE CHAIR: Well, we know Cordy is timely.  
22 And I notice that this go-round, that she just said,  
23 "You know what, Chair Garrison? I don't time  
24 anymore. I'm beyond that, on to better places."  
25 She sits in the back, just relaxes. That's good.

1 Commissioner Gant.

2 COMMISSIONER GANT: Mr. Chair, just for  
3 information, apparently, my NACSA reservations --  
4 registration -- is already there, because they've  
5 sent me a note saying, "Welcome." Am I right? And  
6 they've said which -- they told me what I'm supposed  
7 to be doing and all that. So -- but I still have to  
8 do the reservations for rooms, huh?

9 MS. FRIEDMAN: Right. That --

10 THE CHAIR: I didn't see an E-ticket yet  
11 for a flight.

12 MS. FRIEDMAN: Well, Commissioner Garrison  
13 and Gant and Peralta, you're all registered. Your  
14 registration went through last -- yesterday. And as  
15 far as the E-tickets, there's no real E-tickets.  
16 The information I gave you this morning, if you'll  
17 look on that, it has a confirmation number that is  
18 highlighted in yellow. It's in your travel form,  
19 Commissioner Garrison, on your desk.

20 THE CHAIR: Oh, okay. I was on my -- my  
21 virtual world.

22 MS. FRIEDMAN: I don't have it on your  
23 electronic e-mail yet. I'll send it to you when I  
24 receive it.

25 THE CHAIR: Thank you.

1 MS. CALLAHAN: Mr. Chair -- and just -- I  
2 would be remiss if I didn't recognize Cordelia  
3 Chavez, my Business Operations Specialist;  
4 absolutely phenomenal in taking care of all the  
5 arrangements, for the road show that we did and for  
6 the travel that I've been doing for the Charter  
7 School Division and our team, but, also, in helping  
8 Bev take care of that. And so, Cordy, thank you  
9 very much in keeping us guys on track. (Applause.)

10 THE CHAIR: I might have to hire her  
11 personally.

12 MS. CALLAHAN: No.

13 COMMISSIONER GANT: I got -- I got word  
14 from her that Cordy needs a CDL. Apparently, she's  
15 really good behind that steering wheel.

16 COMMISSIONER LOPEZ: She is. True.

17 COMMISSIONER GANT: We can't afford that,  
18 though. That's very expensive.

19 THE CHAIR: Parking backwards into a spot  
20 in the Starbucks parking lot; that was pretty slick.  
21 I was like, "No way. No way. Oh." Commissioner  
22 Shearman.

23 COMMISSIONER SHEARMAN: I, too, wanted to  
24 thank the staff. They did a tremendous job. It was  
25 long, hard hours, and I know they worked really

1 hard.

2 Carla Chavez [verbatim] and I were driving  
3 together in Carlsbad. And Cordy and Brad really  
4 went above and beyond the call of duty. We took the  
5 wrong turn and went to the wrong street. So Carla  
6 called Cordy on her cell phone, and we got  
7 directions. And they were standing out at the end  
8 of this long driveway going, (Indicates). And then  
9 they walked us over to the drive -- over to the  
10 parking lot. So we made it, not as late as we would  
11 have been, otherwise. So thank you again.

12 Thank you. And you lead a good team.

13 MS. CALLAHAN: Mr. Chair, Commissioner  
14 Shearman, thank you very much. I agree. They are a  
15 great team.

16 COMMISSIONER GANT: I have a comment to  
17 make.

18 THE CHAIR: Commissioner Pogna and then  
19 Commissioner Gant.

20 COMMISSIONER POGNA: Just a comment.  
21 Mr. Chairman, I asked you about -- I talked to you  
22 yesterday about -- excuse me -- your report to the  
23 LESC. And could we have a copy -- if you have a  
24 copy of the report, I really would like to see --

25 THE CHAIR: And did -- did we ever get the

1 track changes removed off of that thing? Because I  
2 think Dr. Harrell and I even had issues on the final  
3 day of emergency printing, that my track changes  
4 were still showing up. So --

5 DR. HARRELL: Mr. Chairman, members of  
6 the Commission, we do, in the LESC files, have a  
7 clean version of the report. And if you'd like, I  
8 can forward it to Kelly or Beverly to send to the  
9 rest of you.

10 THE CHAIR: Perfect; that'll work. I'm  
11 not going to trust my old laptop at the house.

12 COMMISSIONER SHEARMAN: We have that.

13 THE CHAIR: She doesn't have it. So we  
14 could resend it.

15 COMMISSIONER SHEARMAN: It was in our  
16 notebooks at that meeting because we looked at it  
17 and approved it. We voted on it. We also approved  
18 Andrew to make minor changes. So with minor  
19 changes, we all have it.

20 THE CHAIR: So it is the minor changes of  
21 the final document that some of you may or may not  
22 have. So we will accept that offer, Dr. Harrell --

23 COMMISSIONER POGNA: Yes.

24 THE CHAIR: -- to do that. Thank you so  
25 much.

1 DR. HARRELL: The changes were mostly  
2 formatting, primarily.

3 THE CHAIR: Yes, sir. Commissioner Gant.

4 COMMISSIONER GANT: Just a little side  
5 comment on the trip to Carlsbad. I do believe  
6 somehow, Ms. Callahan, if you and Deputy Aguilar  
7 need to figure up the cost of going down there for  
8 no reason and send that individual a bill? And I'm  
9 serious as a heart attack. Okay?

10 THE CHAIR: Ms. Friedman?

11 MS. FRIEDMAN: Commissioner Garrison and  
12 Commissioner Gant, actually, the day that we  
13 received the withdrawal, Deputy Secretary Aguilar  
14 asked for a billing for the three schools that  
15 withdrew. And I must go to Cordy again, because she  
16 helped do the major part of it. And then I went  
17 through all of your receipts and hotel bills and  
18 different things like that. And we gave Deputy  
19 Secretary Aguilar a bill for almost \$6,000.

20 COMMISSIONER GANT: Thank you. And put  
21 that back into the PEC coffers.

22 THE CHAIR: Comments?

23 COMMISSIONER CARR: I have a clarification  
24 on the calendar. Our next meeting is November 2nd?

25 MS. FRIEDMAN: First and second.



1 COMMISSIONER CARR: Oh, it's 1st and 2nd,  
2 okay. So two days. And then the December meeting  
3 is the 13th and 14th?

4 MS. FRIEDMAN: Yes.

5 COMMISSIONER CARR: All right. Wanted to  
6 get clarification. And then also, for future  
7 reference, I continue to request Fridays or the end  
8 of the week, if at all possible, for my schedule,  
9 for my students. It's very difficult -- middle of  
10 the week -- middle of the week, things are just much  
11 more difficult to do.

12 THE CHAIR: Are you talking about the 2013  
13 calendar?

14 COMMISSIONER CARR: Yeah, because we --  
15 when we get there, yeah. We're not going to do that  
16 today; right?

17 THE CHAIR: Correct. Commissioner  
18 Bergman.

19 COMMISSIONER BERGMAN: It's in  
20 Albuquerque? Remind me again. Albuquerque.  
21 Because I have to contact my travel agent, who's my  
22 wife, so she can make reservations.

23 THE CHAIR: I thought it was Cordy.

24 COMMISSIONER BERGMAN: Albuquerque.

25 MS. CALLAHAN: Mr. Chair, Commissioner

1 Bergman, the conference is at the Albuquerque  
2 Pyramid Hotel, Marriott Pyramid, on the 2nd and the  
3 3rd. So that's a Friday and a Saturday. So the PEC  
4 meeting is the 1st and the 2nd. And, again, we get  
5 a lot in two days.

6 What we are going to do, just FYI, is we  
7 are going to do a similar kind of training for the  
8 renewal application reviews that we're going to  
9 receive October 1. So we'll be able to walk through  
10 the evaluation instrument with you all so you can  
11 see that. So that's going to be one of the things  
12 that we'll hopefully be able to do at the meeting,  
13 if that is approved on the agenda, and then the PED,  
14 slash, CSD presentations in the afternoon.

15 So if the meeting is over, you know, say,  
16 at lunch -- so we're just -- we're tweaking as best  
17 we can to make sure that we have an opportunity for  
18 the PEC to be at these input meetings, public  
19 comment on the frameworks and the contract, as well  
20 as be able to participate in the conference.

21 THE CHAIR: Thank you, Ms. Callahan,  
22 Commissioner Gant?

23 COMMISSIONER GANT: Just for notice -- I'm  
24 doing this off the top of my head. But there's a  
25 PSCOC meeting on the 1st of November, and that

1 primary focus is on charter schools. And I think I  
2 definitely should be there for that one. And then  
3 my other assignments as a liaison, there's a  
4 New Mexico Library Commission meeting, which I'm a  
5 member of. So I'll work something out. I'll clone  
6 myself, but I'll be there.

7 MS. CALLAHAN: All of them on the 1st?

8 COMMISSIONER GANT: November 1st and 2nd.

9 MS. CALLAHAN: Oh, my goodness.

10 COMMISSIONER GANT: Okay? We'll figure it  
11 out.

12 COMMISSIONER SHEARMAN: I promise this is  
13 the last.

14 THE CHAIR: Vice Chair Shearman?

15 COMMISSIONER SHEARMAN: At your place,  
16 each one of you should have a copy of Dr. Harrell's  
17 virtual school study -- virtual funding study that  
18 he presented to the Funding Formula task force. And  
19 I asked Beverly to copy those and hand them around.  
20 And thank you, Dr. Harrell, for that very  
21 informative report. And that's it.

22 THE CHAIR: Other comments? I had a  
23 couple of things. I believe -- am I thanking  
24 Commissioner Carr for this?

25 COMMISSIONER CARR: Oh, I went to get

1       them, yes.

2                   THE CHAIR:   Awesome.   Thank you, sir.

3                   COMMISSIONER CARR:   You're welcome.

4                   THE CHAIR:   I started to try to see how  
5 much my car was worth.   But I said, "Oh, that Blue  
6 Book."

7                   COMMISSIONER CARR:   Right, exactly.

8                   THE CHAIR:   That was a bad joke.   Sorry.  
9 Okay.   Lunchtime.   I received a card from the  
10 Legislative Education Study Committee.   I want to  
11 read it.

12                   "Chairman Garrison and Public Education  
13 Commission members.   On behalf of our Chair,  
14 Representative Rick Miera, as you know, Dr. Harrell  
15 has decided to retire despite our objection.   As you  
16 also know he has been an asset not only to the LESC,  
17 but also to the Commission.   While he cannot be  
18 replaced, he has a lot of" -- "... has" -- in  
19 parentheses, "...he has a lot of institutional  
20 knowledge.   Please know that LESC staff will be  
21 available to assist you in your work.   On behalf of  
22 the LESC staff, we appreciate your collaboration and  
23 partnership.   Thanks to all of you for your  
24 commitment to public education and to our students.  
25 Frances Ramirez-Maestas, LESC Director."

1           So I want to thank the LESC for that nice  
2 card.

3           COMMISSIONER SHEARMAN: Thank you.

4           THE CHAIR: And, Dr. Harrell, of course,  
5 thank for you all your work. And your last day is  
6 what? Next week? September 26th; right?

7           DR. HARRELL: Mr. Chairman, members of  
8 the Commission, September 28th. It's the end of a  
9 pay period in September and the final day of the  
10 LESC meeting.

11          COMMISSIONER GANT: That's dedication.

12          THE CHAIR: That's awesome. Work to the  
13 last day.

14          DR. HARRELL: And, Mr. Chairman, if I  
15 may, again, I want to thank the Commissioners again  
16 for the surprising and special recognition from  
17 yesterday. I really was caught off guard. I  
18 appreciate very much your kind remarks during the  
19 meeting, and, now that I've read the card, am even  
20 more grateful and humbled by the things you've said.  
21 So thank you once again.

22          THE CHAIR: And since we're the Public  
23 Education Commission, I hope you ignored all the  
24 typos.

25          DR. HARRELL: I didn't see one.

1 THE CHAIR: Just teasing. Any other  
2 questions? Comments? I want to thank Ms. Callahan  
3 and her wonderful staff for this -- it was a pretty  
4 smooth process, and, it seemed to me, just getting  
5 tighter, and, in the words of Commissioner Gant,  
6 "locked down." So it's -- it's getting good. And  
7 we appreciate you all.

8 MS. CALLAHAN: Mr. Chair, Commissioners,  
9 thank you very much. And, again, I can't emphasize  
10 the importance of the team of the CSD. There is an  
11 immense amount of experience and quality that I am  
12 so fortunate to have as part of my team. So I just  
13 again, want to give them the kudos. The legwork and  
14 the bulk of the interpretations and reviews are  
15 them. I just am very grateful.

16 THE CHAIR: I also wanted to mention the  
17 census report that you put out on the -- on the --

18 COMMISSIONER SHEARMAN: Ah.

19 THE CHAIR: It was a lot. It was a lot of  
20 great information. And it was those questions that  
21 have been burning for so long, to see the data and  
22 to make sense of it. And for that not to be an  
23 intricate part of your review of the application,  
24 but allowing the Commissioners, "Here's a report,"  
25 and you delve out each of your individual

1 communities, I think that -- it's a classy way to do  
2 things, and it's the right way to do things. So we  
3 appreciate that also. Commissioner Gant?

4 COMMISSIONER GANT: While we're handing  
5 out well-deserved kudos, we need to thank Lisa.

6 THE CHAIR: We call her "Cindy."

7 COMMISSIONER GANT: Cindy.

8 THE CHAIR: I want to give her a round of  
9 applause, because she is listening to every single  
10 thing and trying to listen, and the mumblers in the  
11 room, and -- thank you, Cindy. (Applause.)

12 COMMISSIONER SHEARMAN: I think we'd be  
13 remiss to forget Beverly. My goodness, how many  
14 times a day do we e-mail her and say, "Help." Thank  
15 you, Beverly. (Applause.)

16 THE CHAIR: I don't -- I don't even know  
17 why I didn't even say that. I almost don't even  
18 think of her as a staff member. I think of her as,  
19 like, kind of my caretaker. She takes care of me.  
20 She chooses my ties. It's probably gone too far,  
21 but that's why I'm well put together now, because of  
22 her. Thank you so much for everything.

23 MS. FRIEDMAN: You're welcome.

24 THE CHAIR: All right, folks. I will  
25 entertain a motion to adjourn, if there are no other

1 comments.

2 COMMISSIONER BERGMAN: I move we adjourn.

3 COMMISSIONER CARR: I'll move.

4 HEARING OFFICER: I believe Jeff Carr beat

5 Vince Bergman. That's a tie almost. And so

6 seconded by Commissioner Bergman. All those in

7 favor, say "Aye."

8 (Commissioners so indicate.)

9 THE CHAIR: Meeting adjourned. Good job,  
10 people.

11 (Proceedings adjourned at 11:40 a.m.)

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## 1 REPORTER'S CERTIFICATE

2 I, Cynthia C. Chapman, RMR, CCR #219, Certified  
3 Court Reporter in the State of New Mexico, do hereby  
4 certify that the foregoing pages constitute a true  
5 transcript of proceedings had before the said  
6 NEW MEXICO PUBLIC EDUCATION COMMISSION, held in the  
7 State of New Mexico, County of Santa Fe, in the  
8 matter therein stated.

9 In testimony whereof, I have hereunto set my  
10 hand on October 1, 2012.

11  
12  
13 \_\_\_\_\_  
14 Cynthia C. Chapman, RMR-CRR, NM CCR #219  
15 BEAN & ASSOCIATES, INC.  
16 201 Third Street, NW, Suite 1630  
17 Albuquerque, New Mexico 87102  
18 License Expires: 12/31/12  
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