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## FISCAL IMPACT REPORT

SPONSOR Garratt LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 2/20/23  
BILL \_\_\_\_\_  
SHORT TITLE Charter School Expenditure Plan BILL NUMBER House Bill 375  
ANALYST Liu

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Charter Schools		\$0.0 - \$2,935.0	\$0.0 - \$2,935.0	\$0.0 - \$5,870.0	Recurring	General Fund
Charter Authorizers		(\$2,935.0) - \$0.0	(\$2,935.0) - \$0.0	(\$5,870.0) - \$0.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to HB85, HB143, HB325, HB396, SB422, SB438, SB466

Relates to appropriation in the General Appropriation Act

### Sources of Information

LFC Files

#### No Response Received

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

## SUMMARY

### Synopsis of House Bill 375

House Bill 375 amends the Charter School Act, requiring charter school authorizers to provide an oversight and expenditure plan, justifying and reviewing how the 2 percent of each charter school's state equalization guarantee (SEG) payments withheld by the authorizer will be used and were used to monitor and oversee the charter school(s) under its purview. This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## FISCAL IMPLICATIONS

The bill does not contain an appropriation but allows charter school authorizers to withhold up to 2 percent of SEG payments to charter schools for administrative, monitoring, and oversight

functions. Current law allows charter school authorizers to withhold exactly 2 percent of SEG payments from the charter school for administrative support functions, so provisions of this bill may allow some authorizers to withhold a smaller percentage (e.g. 1 percent) of SEG payments from the charter schools. In FY23, over \$2.5 million in SEG payments were withheld by authorizers for charter school administrative support. The HAFB Substitute for House Bill 2 includes a \$4 billion appropriation for the SEG distribution, a 15.9 percent increase over FY23 distribution levels. Assuming the same proportion of SEG payments are withheld by charter school authorizers in FY24, the withholding amount could total \$2.9 million.

Provisions of this bill could potentially increase SEG payments to charter schools and decrease SEG payments to charter school authorizers if authorizers choose to withhold less than 2 percent of SEG distributions for oversight functions. At most, the total fiscal impact could be up to \$2.9 million, although it is likely many authorizers will continue withholding the full 2 percent of SEG amount.

## **SIGNIFICANT ISSUES**

Current law allows charter school authorizers—either a local school board or the Public Education Commission (PEC)—to withhold 2 percent of SEG payments from the charter schools under the authorizer’s purview to provide administrative support to the charter school. Provisions of this bill would require authorizers (and the charter school division of the Public Education Department, which serves PEC) to provide each charter school an oversight and expenditure plan for the SEG withheld by July 15 of each year. The plan must include details on how the authorizer plans to spend the withheld amount for monitoring fiscal practices, overall governance, student performance, performance goal progress, and legal compliance with state laws and the charter contract. Additionally, provisions of the bill require the authorizer or division to provide each charter school a review of how prior withheld SEG payments were spent, including proposed and actual expenditures, and how activities of the authorizer resulted in measurable value to the charter school by August 1 of each year.

Since the Great Recession, the number of charter schools has increased, from 64 schools in FY08 to 100 schools in FY23. In FY23, charter school enrollment represented 9.7 percent of total public school students, up from 3 percent in FY08. Authorization for new charter schools generally happens outside of the regular budgeting process required of all other state agencies and entities. In contrast with state agencies that must request funding from the Legislature for new programs, new charter schools can be authorized by a local school district governing board or the Public Education Commission (PEC). If the Legislature does not appropriate additional funding to cover the costs of new charter schools, overall funding is diluted for all other existing schools.

Altogether, charter schools in New Mexico currently enroll 30 thousand students—larger than Las Cruces Public Schools, the district with the second largest enrollment in the state. Charter schools received over \$334 million, or 9.7 percent, of the FY23 SEG distribution and are primarily located in Albuquerque, Santa Fe, Las Cruces, and Taos. Overall enrollment trends in recent years suggest students in New Mexico are increasingly moving into urban areas and transferring from school districts to charter schools.

## PERFORMANCE IMPLICATIONS

Charter schools authorized by PEC are considered component units of the Public Education Department's (PED) agency audit each year. PED's audits have chronically included multiple material weaknesses and findings due to a lack of financial oversight of charter schools. PED's FY19 audit included three noncompliance findings with the department and Department of Vocational Rehabilitation and 152 findings for the 51 PEC-authorized charter schools attached to the audit. The 152 findings included 14 material weaknesses, 16 significant deficiencies, and 125 issues of noncompliance.

A 2019 Stanford University study by the Center for Research on Education Outcomes (CREDO) on New Mexico charter schools found:

- In a year's time, the typical charter school student in New Mexico made similar progress in both reading and math compared to the educational gains that the student would have made in a traditional public school.
- Enrollment in online charter schools is associated with substantially weaker learning gains in both reading and math. The inferior performance of online charter schools offsets the positive impact of brick-and-mortar charter schools on student growth in reading.
- The outlook for a large proportion of charter schools with below-average growth and low achievement is a source of great concern in New Mexico. Students in these schools will fall further behind their traditional public school peers in the state academically over time if their negative growth persists.

The 2019 CREDO study updated an earlier study in 2009 that found New Mexico charter school student make weaker growth in reading and math than identical peers in traditional public schools.

A 2016 LFC evaluation of six selected charter schools found little difference in student performance between charter schools and traditional public schools in New Mexico. The report noted charter schools tended to serve a lower percentage of Hispanic, economically disadvantaged, and English learners compared with traditional public schools. Challenges existed with school grading, as some charter school missions were unique and did not align well with criteria set by PED. In FY15, selected charter schools had more experienced teachers, lower teacher turnover rates, and higher average teacher salaries than the statewide average. Oversight by state and local authorizers was inconsistent and revocations of charters were rare, despite poor charter school performance. The report recommended additional guidance for authorization and accountability of charter schools and separate funding formulas for charter schools. The report also recommended new formula funding and accountability structures to address virtual schools, due to issues of cost-effectiveness and learning outcomes.

## ADMINISTRATIVE IMPLICATIONS

Provisions of this bill would require charter school authorizers to provide each charter school an oversight and expenditure plan by July 15 and a review of previous expenditures by August 1 of each year.

## RELATIONSHIP

This bill relates to the SEG distribution appropriation in the General Appropriation Act. The bill also relates to House Bill 85, which limits district enrollment to 40 thousand students; House Bill 143, which restricts charter school lease assistance uses; House Bill 325, which changes school board member requirements; House Bill 396, which increases school board member term lengths; Senate Bill 422, which caps charter school enrollment to 10 percent of each district's enrollment; Senate Bill 438, which limits expenditures on school administration; and Senate Bill 466, which separates charter school audits from the chartering authority's audit.

## **OTHER SUBSTANTIVE ISSUES**

PED's charter school division staffs the PEC and provides administrative support to the commission. As such, PED withholds 2 percent of SEG payments from the 57 PEC-authorized charter schools for administrative support functions. In previous operating budget reports, PED has used the 2 percent withholding across various department bureaus, including the charter school division, IT, and accountability to provide support to PEC. The commission has previously requested the use of the 2 percent SEG withholding to pay for their own staff rather than receive PED support.

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