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FISCAL IMPACT REPORT

SPONSOR <u>SHPAC</u>	LAST UPDATED <u>3/2/2023</u>
	ORIGINAL DATE <u>2/26/2023</u>
SHORT TITLE <u>Parents of Children in Performing Art</u>	BILL NUMBER <u>CS/Senate Bill 357/SHPACS</u>
	ANALYST <u>Hanika-Ortiz</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
PED revisit home school regulations	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
WSD - staff, promulgate rules, develop certificate	No fiscal impact	\$150.0	\$100.0	\$250.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses to Original Bill Received From
 Workforce Solutions Department (WSD)
 New Mexico Attorney General (NMAG)
 Children, Youth & Families Department (CYFD)
 Public Education Department (PED)

SUMMARY

Synopsis of SHPAC Substitute for Senate Bill 357

The Senate Health and Public Affairs Committee Substitute for Senate Bill 357 amends Section 50-6-18 NMSA 1978 to increase protections for children under the age of 18 that are employed in the performing arts, and to establish requirements for employers, “studio” teachers, including the certification by WSD that the teacher, in addition to child labor laws and applicable regulations, understands their statutory requirement to report incidents of alleged child abuse.

This effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

In its analysis of SB357, WSD explained its Labor Relations Division has two child labor compliance specialists and will need two more at \$57,140 each, not including benefits and travel. Subsection (F) states WSD shall promulgate rules for employers and develop a certificate of compliance affirming a studio teacher’s knowledge applicable to employment of children in the performing arts industry as well as their statutory requirement to report alleged child abuse. By July 1, 2026, the studio teacher must possess Level II licensure. In its analysis of SB357, WSD said it does not have the methods in place to verify a teacher has the required knowledge to become certified. Resources would be needed to develop a studio teacher certification program.

SIGNIFICANT ISSUES

In its analysis of SB357, PED explained that the instruction of child performers is considered home school, in which the instructor must possess at least a high school diploma or equivalent, if the child is not otherwise enrolled in a school. The substitute bill states by July 1, 2026, the studio teacher must possess Level II licensure. Until then, they will not need licensure by PED.

The bill requires the employer to hire the studio teacher and requires a parent or guardian of a child under the age of 16 to be on set or location and within sight or sound of the child at all times, except when with the studio teacher. In addition to teaching, a studio teacher shall monitor and protect the health, safety, and welfare of the child at all times except during special situations, as enumerated in the bill, when the child is accompanied by a parent or guardian.

TECHNICAL ISSUES

The bill does not include a minimum number of hours required for on-set schooling.

NMAG says:

The law does not specify what is meant by the term “guardian” in the requirement that a “parent or guardian of a child under sixteen years . . . be present with and accompany the child on the set or location and be within sight or sound of the child at all times.” One rational interpretation is that the bill intends for this to be a court-appointed guardian, meaning that parents could not delegate this duty to another family member, paid childcare worker, adult sibling, etc. *See, e.g.*, Section 45-5-201 NMSA 1978.

OTHER SUBSTANTIVE ISSUES

PED noted the following:

- The Fair Labor Standards Act exempts from child labor provisions minors employed as actors or performers in movies, theater, radio or television.
- New Mexico’s Child Labor Act says employers shall provide a teacher “with credentials appropriate to the level of education needed,” and restricts hours children can work.
 - A child-performer's daily working hours, including school, are limited as follows:
 - a child under the age of six may not work more than six hours;
 - a child between age six and nine may not work more than eight hours;
 - a child between nine and 16 may not work for more than nine hours; and
 - a child over 16 but under 18 years old may not work more than ten hours.