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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
57th Legislature, 1st Session, 2025

Bill Number	<u>HB365</u>	Sponsor	<u>Garratt</u>
Tracking Number	<u>.229476.2</u>	Committee Referrals	<u>HEC/HGEIC</u>
Short Title	<u>Public Education Commission Staff</u>		
Analyst	<u>Montoya</u>	Original Date	<u>2/21/2025</u>
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BILL SUMMARY

Synopsis of Bill

House Bill 365 (HB365) would amend the Public Education Department Act (Chapter 9, Article 24 NMSA 1978) by removing the Charter Schools Division (CSD) from the oversight of the Public Education Department (PED) and removing administrative responsibilities for the Public Education Commission (PEC) and its staff from PED. HB365 would establish the State Charter Schools Office to support PEC as the state chartering authority.

HB365 would amend the Public School Code (Section 22-2-2 NMSA 1978) to define PEC's duties. These include overseeing the State Charter Schools Office, authorizing state-chartered charter schools, and collaborating with PED, including entering into data-sharing agreements.

HB365 would also require PEC to solicit input from charter school governing bodies, adding them to the list of entities consulted on public school policy. Additionally, it would clarify references to the "Commission of Higher Education" should be updated to the Higher Education Department.

HB365 would amend the Charter Schools Act (Section 22-8B-1 NMSA 1978) to make technical changes, such as removing references to CSD and replacing it with the State Charter Schools Office. It would remove references to CSD and specify the State Charter Schools Office's support responsibilities, which apply only to state-chartered charter schools.

HB365 would transfer the 2 percent of school-generated program costs, currently withheld by the CSD under the PED, to the new office for administrative support of state-chartered charter schools.

HB365 would shift responsibility for the annual report on state-chartered charter schools to the State Charter Schools Office and add the legislative library to the list of required recipients, and any relevant data compiled by the office. It would also transfer all personnel, appropriations, funds, records, equipment, furniture, supplies, contractual obligations, statutory references, and other property related to the CSD from PED to the proposed State Charter Schools Office.

HB365 contains an effective date of July 1, 2026.

FISCAL IMPACT

HB365 does not contain an appropriation.

HB365 would transfer the 2 percent of a charter school's state equalization guarantee (SEG) distribution—the public school funding formula—that is currently withheld for the Charter Schools Division's (CSD) technical support to the State Charter Schools Office. It is unclear whether this funding will cover the salary of the proposed office director. Additionally, it is uncertain if the director's role in recommending technical and other staff to PEC will lead to new positions beyond the 17 positions currently under [CSD](#).

SUBSTANTIVE ISSUES

Public Education Commission. [PEC](#) consists of 10 elected commissioners who serve for staggered terms of four years. Commission members are residents of the PEC district from which they are elected, and therefore, PEC commissioners are from communities across New Mexico. PEC is the authorizer for all state-chartered charter schools in New Mexico. The primary function of PEC is the review and approval or disapproval of applications to authorize state-chartered charter schools. This includes approval, renewal, suspension, and revocation of state-level charter schools. Acting as the state-level charter school authorizer is the prime focus of PEC's time, work, public meetings, and hearings.

PED currently withholds 2 percent of a charter school's SEG distribution for the CSD's technical support of state-chartered charter schools. The Charter Schools Act (Section 22-8B-13 NMSA 1978) specifically authorizes either a school district, in the case of locally chartered charter schools, or the CSD, for state-chartered charter schools, to withhold and use that 2 percent for support of a charter school. CSD currently provides support and guidance to charter schools, although PEC is the chartering authority for state-chartered charter schools. PED reports PEC neither withholds nor uses these funds, and this element of the charter contract is not addressed in contracts for state-chartered charter schools.

ADMINISTRATIVE IMPLICATIONS

HB365 would require PED to facilitate the transfer of the CSD responsibilities to the newly established State Charter Schools Office. This transition would shift oversight, technical support, and administrative functions from CSD to the new office. PEC would be responsible for appointing a director to manage the office, ensuring effective administration and continuity.

PED would need to allocate appropriate office space for the director of the new office and staff, as well as provide quarters for PEC. The State Charter Schools Office would offer objective, nonpartisan guidance on state-chartered schools, monitor compliance with the Public School Code and charter contracts, and report regularly to PEC. The director, an exempt position, would recommend hiring technical and other staff, while clerical employees would be classified under the Personnel Act.

Additionally, PED would be required to supply the office with relevant data and reports, while PEC would provide recommendations to PED. The office would also assess charter school funding sufficiency, evaluate the effectiveness of the state funding formula, and propose legislative or policy changes to strengthen state-chartered schools.

OTHER SIGNIFICANT ISSUES

Creation and Current Role of PEC. Powers and duties were transferred from the original state board of education to PED upon adopting a constitutional amendment that took effect on September 23, 2003. Prior to this time, the members of the state board of education were elected, with incumbents from the board becoming PEC members upon approval of the amendment, with duties limited to strategic planning and policy advisement for local school boards. PEC’s current responsibility for chartering schools was established in 2006.

Charter Schools in New Mexico. The Charter Schools Act (Section 22-8B NMSA 1978) was enacted in 1999 to create additional public school options and encourage the use of different and innovative teaching methods and ways of measuring student achievement to meet the needs of all students. In New Mexico, charter schools may be authorized by either PEC or the local school board in the district in which the charter school is located. Today, there are [99 charter schools in New Mexico](#), 60 authorized by PEC (state-chartered charter schools) and 39 authorized by local school districts (locally chartered charter schools).

State law specifies charter schools are accountable to the chartering authority for ensuring compliance with applicable laws, rules, and charter provisions. Charter schools are also required to be accredited by PED. This means the chartering authority of a charter school—whether PEC or the local school board—as well as PED, is responsible for providing oversight and accountability for both the charter school and the charter school governing board.

The Charter School Act also specifies the governance of charter schools by a five-member charter school governing board. It outlines responsibilities and duties, noting the governing body may contract, sue, and be sued. As PED notes, charter school governing bodies are meant to uphold the vision of their charter school through effective governance and perform various duties, including ethical and financial oversight; establishment of, review, and revision of broad organizational policies; employ and oversee the school’s head administrator and ensure and be accountable for the academic, financial and organizational performance of the school.

Authorization and Oversight of Locally Chartered Charter Schools. If a charter school applies to and is approved by a local school board and becomes a locally chartered charter school, the local school board of the school district in which a charter school is located would become the chartering authority of that charter school. Like state-chartered charter schools, Section 22-8B-5 NMSA 1978 clarifies local school boards’ authority over locally chartered schools and limitations to that authority.

RELATED BILLS

Related to Senate Bill 245 (SB245), Charter Schools as Boards of Finance, would amend the Audit Act, Public School Finance Act, and Charter Schools Act to require charter schools to conduct separate audits and select their auditors. SB245 would require all charter schools to qualify as boards of finance before finalizing new or renewed contracts or risk ineligibility for operation. The bill also mandates charter schools to submit data to the PED.

SOURCES OF INFORMATION

- LESC Files