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

Bill Number	<u>SB245</u>	Sponsor	<u>Maestas</u>
Tracking Number	<u>.230261.1</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>Charter Schools As Boards of Finance</u>		
Analyst	<u>Montoya</u>	Original Date	<u>2/7/2025</u>
		Last Updated	<u>2/11/2025</u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 245 (SB245) proposes amendments to the Audit Act (Section 12-6-4 NMSA 1978), the Public School Finance Act (Section 22-8-38 NMSA 1978), and the Charter Schools Act (Section 22-8B-4 NMSA 1978). The bill would require charter schools to conduct separate audits from its chartering authority, while remaining part of their chartering authority's audit. Charter schools would select their own auditors and cover audit costs independently.

SB245 would mandate that all charter schools qualify as boards of finance by July 1, 2026. Schools would have to attain this status before finalizing new or renewed charter contracts. The bill aligns local and state-chartered schools in their board of finance requirements with their respective chartering authorities, ensuring consistency in qualification, reporting, and financial oversight. Charter schools failing to meet this requirement by July 1, 2026 would be ineligible for operation, and chartering authorities could deny applications from schools whose governing bodies lack board of finance designation.

Additionally, SB245 requires all charter schools to submit data to the Public Education Department (PED). Chartering authorities would retain oversight responsibilities as pursuant to statutory and contractual requirements.

FISCAL IMPACT

SB245 does not contain an appropriation.

SUBSTANTIVE ISSUES

Board of Finance Designation. In New Mexico, a board of finance designation grants entities, such as school districts, the authority to manage and oversee their financial operations. This designation requires entities to demonstrate financial responsibility and comply with state regulations. Section 22-8-38 NMSA 1978 states that a local school board designated as a board of finance may require all funds distributed to, allocated to, or collected for the school district or its

public schools to be deposited with the board. To qualify for this designation, current law stipulates the local school board must show PED its personnel are properly trained in maintaining accurate financial records, agree to consult with the PED on matters not covered by the accounting manual before taking action on funds, ensure individuals handling funds are adequately bonded, and confirm the board has not been suspended and reinstated as a board of finance within the past year.

State Oversight of Locally Chartered Schools. According to analysis from by the Office of the State Auditor (OSA), Section 22-8-39 NMSA 1978 grants PED the authority to suspend a school's board of finance or assume financial control in cases of mismanagement, improper record-keeping, or inaccurate financial reporting. It is unclear if this oversight would extend to locally chartered schools under SB245. If PED were authorized to take over a locally chartered charter school, the state could face a challenging oversight role for an entity it did not authorize. Currently, locally chartered charter schools are authorized by their local school district and the local school district acts as their board of finance.

Implications for State-Chartered Charter Schools. State-chartered charter schools are authorized by the Public Education Commission (PEC) and are currently considered sub-units in PED's annual audits. As a result, audit findings at the state-charter level are reflected in PED's overall audit results. Requiring all charter schools to undergo separate audits from their respective authorizing authority could introduce auditing complexities which is addressed in the analysis provided by OSA. See the **Administrative Implications** section of this analysis for more detail.

Oversight Challenges. OSA staff has identified potential oversight challenges related to the financial operations of locally chartered charter schools, particularly concerning their legal structure and financial interactions with charter school foundations. Some charter schools have faced significant financial difficulties, such as financial stability due to substantial debt held by the foundation, and poor financial management in which contracted auditors were unable to verify their financial statements. According to OSA staff, SB245 may not mitigate the financial impact of charter schools on their authorizers' financial statements, as governmental accounting standards will still require locally chartered charter schools to be included in district audits, either discretely or as a blended entity.

ADMINISTRATIVE IMPLICATIONS

According to analysis provided by OSA, state-chartered and locally chartered charter schools are audited separately but are not required to have standalone audits. SB245 would allow charter schools to select their own auditors. However, based on Governmental Accounting Standards Board (GASB) usually considers charter schools to be component units of their chartering authority, meaning their financial information is included in the audited statements of the local school district or PED, depending on whether they are locally or state-chartered. Additionally, any discrepancies in financial data between a charter and its chartering authority would require reconciliation. This could cause reporting delays and additional administrative costs for charter schools, chartering authorities, and OSA. OSA indicates the [state audit rule](#) would need be updated and review other provisions on charter school audits to clarify how data from two auditors will be reconciled into a unified presentation.

SB245 could require charter schools to hire additional staff and establish policies and procedures to comply with its requirements and maintain a board of finance designation. Charter schools may face higher administrative and contractual costs to meet the proposed audit requirements.

OTHER SIGNIFICANT ISSUES

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 the Public Education Commission (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 the PEC (state-chartered charter schools) and 39 authorized by local school districts (locally chartered charter schools).

State law specifies that charter schools are “accountable to the chartering authority for purposes of 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 the 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 governance of charter schools by a five-member charter school governing board, and outlines responsibilities and duties, noting the governing body may contract and 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. Just like for state-chartered charter schools, Section 22-8B-5 NMSA 1978 clarifies the authority that local school boards have over locally chartered schools and limitations to that authority. Section 22-8B-4(P) NMSA 1978 notes a charter school governing body may contract and sue and be sued, and “a local school board shall not be liable for any acts or omissions of the charter school.”

Chartering authorities are empowered by statute to “decline to approve charter applications that fail to meet the requirements of the Charter Schools Act or are otherwise inadequate; negotiate and execute, in good faith, charter contracts that meet the requirements of the Charter Schools Act with each approved charter school; monitor, in accordance with the requirements of the Charter Schools Act and the terms of the charter contract, the performance and legal compliance of charter schools under their authority; and determine whether a charter school merits suspension, revocation or nonrenewal.”

SOURCES OF INFORMATION

- LESC Files
- Office of the State Auditor (OSA)
- New Mexico Regional Cooperatives (NMRECA)

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