

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/18/15
 SPONSOR HAFC LAST UPDATED 2/25/15 HB 19/HAFC
 SHORT TITLE Charter School Education Tech Equipment SB _____
 ANALYST Chavez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
	Charter Schools – Increase (See Fiscal Implications)		Nonrecurring	Charter School Operating Budgets

(Parenthesis () Indicate Revenue Decreases)

Relates to SB 8/SFCS

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Information Technology (DoIT)
 Public Education Department (PED)

SUMMARY

Synopsis of Bill

The House Appropriation and Finance Committee Substitute for House Bill 19 amends the Education Technology Equipment Act to make charter schools eligible for funding for education technology pursuant to the issuance of education technology notes (ETNs) under the Act. The bill also expands the possible use of ETNs to include expenditures for technical support and training expenses of school district employees who administer education technology projects funded by a lease- purchase arrangement, and may include training by contractors.

Section 3 of the bill adds a new section of the Education Technology Equipment Act (ETEA) that requires a school district that enters into a lease-purchase arrangement under the provisions of the Act to provide charter schools with education technology equipment after July 1, 2015. The value of the distributed equipment would be based on the net proceeds from the debt through a lease-purchase arrangement prorated by the number of students enrolled in the school district and eligible charter schools.

The Public School Capital Improvement Act (Section 22-25-3.B. NMSA 1978) and the Public School Buildings Act (Section 22-26-3.B. NMSA 1978) have both been amended in the past to

provide charter schools a proportionate share of these funds based on enrollment. While these are mill-levy taxes, with revenue from the taxes distributed among the schools in the district, this bill would allow charter schools to participate in the lease-purchase of technology equipment or other costs as outlined in the bill. The term for ETNs is usually five years and the ETNs usually require an annual principal and interest payment. The revenue generated from the issuance of ETNs covers the principal and interest of the debt of a lease-purchase agreement made by a school district.

Finally, Section 4 of the bill amends the ETEA (Section 6-15A-14 NMSA 1978) to provide that a local school board may submit to a vote in the school district the question of creating debt by entering into a lease-purchase agreement, and providing that the local school board must abide by the outcome of the majority vote on that question.

FISCAL IMPLICATIONS

There is no appropriation for this bill.

Charter schools' inclusion in lease-purchase agreements would lead to an increase in revenue as measured in the value of technology equipment received. Taxpayers may pay a slightly higher amount as charter schools are included into technology purchased under the ETEA.

SIGNIFICANT ISSUES

Like other property taxes imposed for school-related expenses (such as SB 9 and HB 33, otherwise known as the Public School Capital Improvement Act and the Public School Buildings Act), ETNs are sold using the district's property tax capacity to generate funds for the purpose of providing technology equipment. However, unlike these other taxes, they are the only property tax under the Public Finance Act that can be imposed without voter approval -- only school board approval is necessary for the issuance of ETNs. Section 4 of the bill amends the ETEA to allow school boards to submit a question of entering into a lease-purchase agreement to the electorate of the local school district; the bill states that a school district "may" submit to a vote of qualified electors. However, the bill also states that the local school board "shall" abide by the results of that vote. Consequently a local school board would have the option of whether or not to put the question of entering into a lease-purchase agreement to a vote, but would be required to abide by the results if it chooses to have a vote.

PED notes that in practice, dividing up technology equipment according to student membership is more complicated than dividing up revenue generated through SB 9 and HB 33. However, unlike those property taxes, ETNs can only be used to enter into lease-purchase agreements for specific equipment and cannot be used to generate additional revenue. PED adds it is unclear how "value" will be determined and may lead to uncertainty on what equipment may be needed by charter schools. PED suggests the Legislature may wish to change this provision to have a prorated dollar amount included in the lease purchase arrangement to remove this uncertainty and ensure charter schools receive the equipment they actually need. However, lease-purchase arrangements can only include specified equipment; they cannot contain an additional dollar amount above what is required to repay the debt for equipment contained in a lease-purchase agreement.

It is important to note that a difference between revenue generated from the Education

Technology Equipment Act versus SB 9 and HB 33 tax elections is that the ETNs, which are also paid from property taxes, do not generate revenue but rather are used to repay a debt entered into through a lease purchase arrangement. The term for ETNs is usually five years and the ETNs usually require an annual principal and interest payment.

The bill defines “eligible charter school” as “a locally-chartered or state-chartered charter school located within the geographic boundaries of a school district that timely provides the necessary information to identify the lease-purchase education technology equipment for use in the charter school to be included in the local school board resolution for lease-purchase of education technology equipment and for which the proposed lease-purchase of education technology equipment is included in the school district’s approved technology master plan. However, PED notes it may be difficult for state-chartered charter schools be included in the school districts’ technology master plan since they are independent local education agencies.

PED also notes Section 2 of this bill adds definitions to the ETEA to include technical support and training expenses of employees who administer projects funded by the Act as allowable expenditures. It is unclear if these supports and training need to be part of the lease purchase agreement or whether they can be procured separately. If they are not required to be part of the lease purchase agreement, PED raises concerns regarding funding recurring costs from nonrecurring sources and the potential impact in the future on the operational budget when these bonds are retired.

The Legislature has recently made several other sources of revenue available to school districts to assist with technology needs. SB 159, now known as the broadband deficiency correction program, was enacted in 2014 and provides for up to \$10 million dollars per year for five years to make improvements in broadband access across the state. In addition, the Legislature appropriated \$5 million to PED in the 2014 legislative session to bring schools up to minimum broadband requirements to implement computer-based assessments. The Legislature also appropriated \$5.2 million during the 2013 legislative session to purchase computers needed for computer-based assessments. These appropriations have made more money available to school districts and charter schools for other technology costs such as equipment that may also be purchased under ETNs.

PED notes currently, there are 17 school districts utilizing financing under the ETEA. Of the 17, seven school districts have at least one charter school residing within the school district’s boundaries.

DUPLICATION, RELATIONSHIP

SB 8 as substituted by the Senate Finance Committee also addresses allowing charter schools to receive ETNs. SB 8 and HB 19 as originally written were duplicates. The two bills as substituted are also duplicates.

TECHNICAL ISSUES

PED notes the following concerns:

On page 3, lines 14 – 16, provisions in the bill require that information related to the use of education technology equipment be included in the district’s approved technology

master plan. This may be difficult for state-chartered charter schools since they are not authorized by the local school district, and exist as an independent local education agency. The Legislature may wish to change these provisions to require state chartered charter schools have included these requirements in their own education technology plans.

Section 2 of this bill adds definitions to the ETEA to include technical support and training expenses of employees who administer projects funded by the Act as allowable expenditures. It is unclear if these supports and training need to be part of the lease purchase agreement or whether they can be procured separately.

OTHER SUBSTANTIVE ISSUES

PED notes the original intent of including charter school to receive a proportionate share of SB 9 and HB 33 was to provide a revenue source to assist charter school to move into public buildings by 2015, required pursuant to 22-8B-4.2 NMSA 1978. However, many charter schools receiving SB 9 and HB 33 funds have been making expenditures for educational technology and equipment in lieu of construction, renovation or to enter into a lease purchase agreement in order to be located in a public building which was the original intent.

KC/je/bb/je