

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](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

**SPONSOR** Stewart **ORIGINAL DATE** 2/24/15  
**LAST UPDATED** 3/4/15 **HB** \_\_\_\_\_  
**SHORT TITLE** Charter School Responsibilities **SB** 148/aSEC/aSFC  
**ANALYST** Chavez

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

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 74, HB 449, SB 429, and SB 273

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

### SUMMARY

#### Synopsis of the SFC Amendment

The Senate Education Committee Amendment to Senate Bill 148:

- Restores language that a state-chartered charter school budget be submitted to the Charter Schools Division (CSD) of PED. The amendment adds that a budget be submitted to the Public Education Commission (PEC) for review after being submitted to CSD for approval or amendment.
- Strikes “and those nondiscretionary waivers” from Section 22-8B-9(B)(1) NMSA 1978, which requires charter schools to include all agreements regarding the release of the charter school from PED and school board rules, including discretionary waivers, in the charter school contract.
- Adds a separate section of Section 22-8B-8(B) that a listing of nondiscretionary waivers be included in a charter school contract.

#### Synopsis of the SEC Amendment

The Senate Education Committee Amendment to Senate Bill 148 changes “minimum educational standards” to “standards of excellence” on page 34, lines 9 and 10 of the bill. This aligns the language with other sections of the bill.

Synopsis of Original Bill

Senate Bill 148, for the Legislative Education Study Committee, amends 15 sections of the Public School Code to define certain charter school terms and clarify certain responsibilities of charter school authorizers, charter school governing bodies and charter schools beginning in FY16.

**FISCAL IMPLICATIONS**

There is no appropriation contained in this bill. There may be additional costs for charter schools that would be required to train staff under the bill; however, these costs would not be significant.

**SIGNIFICANT ISSUES**

Section 1 of the bill defines charter school and includes charter school head administrators in the definition of school administrators in Section 22-1-2 NMSA 1978.

Section 2 of the bill adds a governing body of a charter school to Section 22-2-21 NMSA 1978, “Bullying and Cyberbullying prevention programs”.

Section 3 and Section 7 of the bill add “for a charter school” to “the governing body of a charter school to Section 22-2E-4 NMSA 1978 and Section 22-8-18 NMSA 1978.

Section 4 of the bill clarifies the state-chartered charter schools budget submission process by having budgets be first submitted to the Public Education Commission (PEC), rather than to the charter schools division of PED, adding that the approval or amendment authority of the Commission relative to the charter school budget is limited to ensuring that sound fiscal practices are followed in the development of the budget and that the charter school budget is within the allotted resources. **This provision was removed in the SFC amendment. Instead, PEC shall receive the budget for review after it has been submitted to CSD.**

The PEC has no veto authority over individual line items within the charter school’s proposed budget but shall approve or disapprove of the budget in its entirety. Upon final approval of the charter school budget by the PEC, the charter school budget shall then be submitted to PED for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act (Section 22-8-6.1 NMSA 1978).

PED notes that, for the budget approval process PEC, which is administratively attached to PED, would defer to PED staff for technical knowledge on budgets and budget priorities. PED notes that the result may be duplicative as the department would provide two separate analyses for all budgets. PED adds the administrative implications for two separate review processes may create difficulties for charters to provide accurate budgets, as charter schools would need to approve and submit their budgets as early as August of the previous school year to allow time for separate PEC and PED review and approval.

This section of bill also removes sections of statute that are no longer relevant.

Section 5 of the specifies that budgets shall be submitted by a school district, locally chartered charter school or state-chartered charter school should be in a “manner” specified by the department, rather than “form” (Section 22-8-7 NMSA 1978).

Section 6 discusses the budget approval process for charter schools, including all charter schools and school districts (rather than only state-chartered charter schools) in the budget submission and approval process.

Section 8 in the bill adds the following definitions in the Charter Schools Act (Section 22-8B-2 NMSA 1978): “enrollment preference”, “governing body training”, “management”, “material violation”, “nondiscretionary waiver”, “performance indicator”, “performance target”, and “siblings”.

PED notes the addition of “nondiscretionary waiver” in this section -- page 19, lines 7-11-- to mean “a waiver of requirements or rules and the provisions of the Public School Code that the department shall grant pursuant to Section 22-8B-5 NMSA 1978 and for which a charter school shall not require separate approval by the department” would eliminate transparency regarding the full array of waivers a charter may request, and prevent charters from listing nondiscretionary waivers. Waivers such as these can highlight innovative practices that many charters schools find success with, and any elimination of transparency would be a problem.

Section 9 of the bill clarifies that a local school board has the authority to approve the establishment of a locally chartered charter school within that local school board’s district – previous language was potentially confusing regarding state chartered charter schools located within a school district. (Section 22-8B-6 NMSA 1978) This section also changes the due date for applications for initial charters to June 1<sup>st</sup>, from between June 1<sup>st</sup> and July 1<sup>st</sup> of every year. PED notes this change would allow for more time for analysis and review of new charter applications and possibly extend charter school planning years.

Section 10 of the bill amends Section 22-8B-9 NMSA 1978 to include “those nondiscretionary waivers” provided for in Section 22-8B-5 NMSA 1978 (Section 8 of the bill). **The SFC amendment moves nondiscretionary waivers from Section 22-8B-9(B)(1) NMSA 1978 to a new subsection.**

Section 11 of the bill ensures that a performance framework shall be a material term of the charter school contract and shall include performance indicators and performance targets (Section 22-8B-9.1 NMSA 1978). PED analysis states this change adds clarity to the role of the performance frameworks and allows for authorizers to make more forceful decisions regarding charters as a result of their performance.

Section 12 updates Section 22-8B-12 NMSA 1978 to change the departments “minimum educational standards” to “standards of excellence”.

Section 13 of the bill removes “state-chartered” before the term “charter school” in Section 22-15-D-5 NMSA 1978, which discusses the preparation and submission of a fine arts education program plan.

Section 14 and Section 15 of the bill makes changes to the Bilingual Multicultural Education Program Act (Section 22-23-2 and Section 22-23-5 NMSA 1978) by removing the definitions of “department” and “school board” and changing the definition of “district”, and by adding the governing body of charter schools to sections that outline provisions for school boards according to the Act.

## PERFORMANCE IMPLICATIONS

PED analysis states SB 148 relates to PED's strategic lever in aligning charter school budgets to proven student success strategies, and that including the PEC in the budget approval process could create competing priorities and diminish the ability to drive charter school student performance in the budget process.

## ADMINISTRATIVE IMPLICATIONS

PED notes that the provision for the PEC to approve budgets before the Public Education Department in Section 4 would result in PED providing two separate analyses for charter school budgets and duplicate the budget review process already in place. PED adds that the administrative implications for two separate review processes would create difficulties for charters to provide accurate budgets. **The process of state-chartered charter schools submitting budgets first to CSD was restored in the SFC amendment.**

## RELATIONSHIP

HB 74 removes the administrative attachment of PEC to PED.

HB 449 and SB 429 (duplicates) require charter schools to provide annual fiscal reports to PED and their chartering authority.

SB 273 restructures the Charter Schools Act to clarify the role of governing bodies and administrators for charter schools.

KC/je/aml/bb