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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**53rd Legislature, 1st Session, 2017**

**Bill Number** SB135/SECS      **Sponsor** SEC

**Tracking Number** .206695.2      **Committee Referrals** SEC/SFC;HEC/HAFC

**Short Title** Charter Schools in School Districts

**Analyst** Simon      **Original Date** 2/7/17  
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**BILL SUMMARY**

Synopsis of Bill

Senate Bill 135 (SB135) would require the Public Education Department (PED) to take credit for 75 percent of federal operational Impact Aid for charter schools in the same way that PED currently does for school districts.

**FISCAL IMPACT**

In FY16, six state-chartered charter schools and East Mountain Charter High School, a locally chartered charter school that was a state-chartered charter school during the Impact Aid application period, received a total of \$1 million in federal Impact Aid, according to PED. Were PED to take credit for 75 percent of those funds, \$778 thousand in general fund state equalization guarantee (SEG) distributions would have been withheld.

State-Chartered Charter School	FY16 Operational Impact Aid
Walatowa Charter High	\$ 855,142
McCurdy Charter School	\$ 164,839
East Mountain Charter High	\$ 9,764
Southwest Secondary	\$ 4,466
Southwest Aeronautics	\$ 2,456
Southwest Primary	\$ 604
Southwest Intermediate	\$ 416
	\$ 1,037,687
<b>75% Credit</b>	\$ 778,265

Source: PED

Although currently a relatively small percentage of total Impact Aid payments, as charter schools expand into areas with high concentrations of federally connected children, these payments may increase. Not taking credit for charter school impact aid could have an effect on the equity of the funding formula. For example, in FY16 Walatowa Charter High School's total operational

revenue, including local and federal funds, the SEG distribution, and other operational revenue, totaled \$23,297 per funded MEM because no credit was taken for operational impact aid. If credit were taken, the SEG distribution would have been reduced by approximately \$494 thousand, making revenues \$14,855 per funded MEM. Statewide, FY16 total operational revenues topped \$2.6 billion, or about \$7,933 per funded MEM.

## **SUBSTANTIVE ISSUES**

Federal law provides financial assistance to local education agencies that experience a financial burden due to federal ownership of property that would otherwise be taxed, or that serve federally connected children, such as those who reside on military bases or Indian reservations. The federal government considers each of New Mexico's 89 school districts and any state-chartered charter school to be a "local education agency." Due to New Mexico's equalized funding formula, the state takes credit for the 75 percent of operational impact aid received by school districts. The state does not take any credit for federal Impact Aid that is paid specifically for Indian education, construction and facilities maintenance, or special education.

School districts receive operational Impact Aid under two sections of federal law. Under 20 USC § 7702, school districts receive compensation for ownership of property that has been acquired by the federal government since 1938. According to the National Association of Federally Impacted Schools, only local education agencies with defined geographic borders may receive Impact Aid payments under section 7702. All local education agencies, including New Mexico's state-chartered charter schools, may receive payments under 20 USC § 7703 if they meet the federal government's eligibility requirements. Section 7703 provides payments for "federally connected children," including those who reside on federal property, reside on Indian lands, have a parent who is on active duty in the military, or have a parent who is employed on federal property. According to PED, local education agencies who serve such children may apply to the federal Impact Aid office to receive funds. Local education agencies must have at least 10 percent of students be federally connected children or at least 1,000 federally connected children to qualify for Impact Aid.

In addition to the state-chartered charter schools, one locally chartered charter school (the Native American Community Academy) received Impact Aid revenue through their authorizing school district. Because both Impact Aid and the SEG distribution flow first to the school district, which sends funds to the locally chartered charter school, PED takes credit for Impact Aid directed to locally chartered charter schools prior to distributing SEG to the school district.

## **ADMINISTRATIVE IMPLICATION**

PED notes that school districts that receive federal Impact Aid have a clear understanding of the need to report the amount of Impact Aid payments to the department but charter schools do not yet have this understanding. PED may need to adjust internal procedures to ensure Impact Aid payments are fully reported by all school districts and charter schools.

## **OTHER SIGNIFICANT ISSUES**

In most states, federal law prohibits the state from considering impact aid when allocating state funding; however, states that provide equalized expenditures for public education are allowed to consider such payments to maintain an equalized formula. According to the National Association of Federally Impacted Schools, New Mexico is one of only three states (with Alaska and Kansas)

that currently meet criteria for equalization. In FY16, PED took credit for \$54.3 million in federal Impact Aid payments received by school districts, but did not take credit for Impact Aid received by charter schools.

**SOURCES OF INFORMATION**

- LESC Files
- Public Education Department

**JWS/rab**