

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)).

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/21

SPONSOR Padilla LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Career Technical Education Under PED SB 401

ANALYST Becerra

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

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0	\$0-\$151.0	\$0-\$151.0	\$0-\$302.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB107

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the Attorney General (NMAG)  
Public Education Department (PED)

#### No Response Received

### SUMMARY

#### Synopsis of Bill

Senate Bill 401 (SB401) clarifies the scope of the Public Education Commission's (PEC) duties and primary function, the authorization of state-chartered charter schools. The bill amends statute to reflect PEC's involvement in other areas, including suspension of local school boards, career and technical education, the Indian Education Act, the Hispanic Education Act, and the School Library Material Act.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

### FISCAL IMPLICATIONS

SB401 does not contain an appropriation.

SB401 would require PEC, as a state commission, to be legally represented by the Office of the Attorney General (NMAG). In its analysis of the bill, PED reports that, currently, PED pays for PEC's contract for representation by private attorneys – a three-year cost of approximately \$452 thousand or \$151 thousand a year. This cost is identified as an estimated additional fiscal impact because the cost that has been covered by PED will now be a cost incurred by the state on a recurring basis.

PED notes in its analysis that representation by private attorneys at the recent December 9-12, 2020, meeting of PEC incurred costs of \$10,530. In the past, NMAG has represented PEC at its public meetings for purposes of advising with regard to compliance with the Open Meetings Act.

## **SIGNIFICANT ISSUES**

***Public Education Commission.*** PEC's primary function is the review and approval, or disapproval, of applications to authorize state-chartered charter schools, including renewal, suspension, and revocation of state-level charters. These matters occupy the bulk of its time, work, public meetings, and hearings. SB401 merely amends statute to better clarify this responsibility.

***PEC/PED Responsibilities under SB401.*** SB401 amends the Public Education Department Act by removing reference to the PEC's advisory function on policy matters and, instead, specifically addresses its primary function of authorization of state-chartered charter schools. Further, it requires NMAG undertake legal representation of PEC as a state commission, rather than allowing it to contract for private legal representation.

SB401 removes the requirement the secretary of public education consult PEC before suspending from authority a local school board or school official that has failed to execute its duties to such an extent that suspension is the only viable path to correcting course for that district or official. PEC would not be aware of these issues relative to local school boards or officials, and current law provides only that it *may* offer alternative actions for the secretary's consideration. PED notes the requirement the secretary consult with a body not even tangentially involved with the governance of local school boards to solicit advice that need not even be considered simply adds an unnecessary impediment to an already involved and fraught bureaucratic process.

SB401 addresses an ongoing internal conflict in the Charter Schools Act regarding the withholding and administration of the 2 percent of a charter school's state equalization guarantee (SEG) distribution for technical support, resolving the contradiction in the Charter Schools Act and reflecting the reality of state-chartered charter school operation and support.

SB401 makes technical changes to reflect the shift of focus from "vocational" education to "career and technical education" (CTE). The provisions of SB401 reference the "Instructional Support and Vocational Educational Division" to its successor, the "Career and College Readiness Bureau" of PED and address PEC's lack of involvement in career and technical education policy. Additionally, the changes make PED the governing authority for the establishment and implementation of policies for all state plans addressing CTE.

## **PERFORMANCE IMPLICATIONS**

PED notes the department already undertakes most of the duties and responsibilities that current law assigns to PEC and SB401 officially transfers those to PED. In those cases where actions by

PED would be affected by the provision of the bill, it would reduce administrative burden and unnecessary effort.

**ADMINISTRATIVE IMPLICATIONS**

PED notes, if enacted, the provisions of SB401 may require PED to reassess and amend some sections of relevant administrative rule.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to SB107, Career Readiness Systems Statewide.

MB/al