

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2017 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

<b>Original</b>	<input checked="" type="checkbox"/>	<b>Amendment</b>	<input type="checkbox"/>	<b>Date</b>	<u>2/4/2017</u>
<b>Correction</b>	<input type="checkbox"/>	<b>Substitute</b>	<input type="checkbox"/>	<b>Bill No:</b>	<u>SB193</u>

<b>Sponsor:</b>	<u>Senator William P. Soules</u>	<b>Agency Code:</b>	<u>924</u>
<b>Short Title:</b>	<u>SUPPORT &amp; OVERSIGHT OF CHARTER SCHOOLS</u>	<b>Person Writing</b>	<u>Aguilar/Poulos</u>
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**SECTION II: FISCAL IMPACT**

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

	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		(600.0)	(600.0)	(1,800.0)	Recurring	PED Operating Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

SB193 amends the Public School Code, specifically the Charter School Act. The amendment requires the Public Education Department (PED) to transfer one-fourth of the two percent of the school-generated program cost it withholds from state-chartered charter schools to the Public Education Commission (PEC).

The bill also eliminates the requirement that the PED provide staff support to the PEC and the authority of the PED to make recommendations to the PEC regarding the approval, denial, suspension or revocation of the charter of a state-chartered charter school. The amendment adds a requirement that the PED provide the PEC with all information related to the administration of charter schools necessary for the PEC to carry out its duties regarding the oversight and

approval, denial, suspension and revocation of charters of state-chartered charter schools.

## **FISCAL IMPLICATIONS**

This transfer of funds is not included in the Governor's budget recommendation.

While there is no appropriation contained in SB193; the bill transfers about \$600 thousand currently used by the PED to support the administration of charter schools to the PEC. These funds are used to pay for the operations of the PEC; to provide administrative and staff support to the PEC: to support the eight PED staff that provide information to the PEC, conduct school evaluations and site visits, generally conduct the daily work of overseeing charter schools on behalf of the PED and PEC, and provide technical assistance and training for charters schools. SB193 substantially decreases the funding to support the PED's responsibilities as they relate to charter schools, but does not decrease the responsibilities and does not identify how the funding needs will be adjusted.

Under the provisions of Section 9-24-9, the public education commission is administratively attached to the department, with administrative staff provided by the department. As such, the PEC is **not** considered a state agency and does not have the authority to spend money or to hire and fire employees. All financial transactions and staffing are the responsibility of the PED. This bill attempts to change enabling statute by amending other parts of the NMSA.

SB193 indicates the funding will be used by the PEC for its administrative support of a state-chartered charter school. The bill does not identify what responsibilities this includes or how the funding should be used.

## **SIGNIFICANT ISSUES**

SB193 requires the PED to provide the PEC with all information related to the administration of charter schools necessary for the PEC to carry out its duties regarding the oversight and approval, denial, suspension and revocation of charters of state-chartered charter schools. It is unclear why this is necessary under the provisions of the bill. If the PEC is to hire their own staff (which they are not authorized to do), that staff needs to do the work they are being paid for.

The PEC has never defined what information is needed or required from each bureau or from the PED; the PED currently responds to all requests for information from the PEC and provides the information identified in SB193. The change in the administrative burden, including financial, of providing this information is unclear and the mandate in the statute does not recognize that the information must be available or reasonably available. Depending on the information the PEC determines to be necessary, there may be the creation of substantial additional burdens that cannot be reasonably met by the PED—especially considering the decrease in funding that SB193 creates. The provision of such information will likely require the PED to maintain current staffing levels with a decrease in funding that is not otherwise provided for.

SB193 does not identify what the PEC's "administrative support of a state-chartered charter school" includes. SB193 uses the language administrative support rather than authorizing practices or oversight, approval, denial, suspension and revocation. The language of this bill does not provide sufficient guidance on how the funding allocated to the PEC is to be used and what responsibilities continue to lie within the PED. The language does not identify whether the

PED or PEC will be responsible for conducting the annual site visits to gather necessary information, which requires the bulk of the staffing that is currently provided to the PEC by the PED.

## **PERFORMANCE IMPLICATIONS**

State-chartered charter schools as component units of the PED for purposes of the annual audit. These schools represent a large number of the annual audit findings. PED, through its work from the Charter Schools Division and through its recommendations to the PEC, has been working to improve the audit performance of these schools. By removing the authority to make recommendations to the PEC, the PED will be held responsible for the performance of state-chartered charter schools but will be precluded from taking appropriate action to improve that performance.

Further, the PED, through its work from the Charter Schools Division and through its recommendations to the PEC, has been working to improve the academic performance of these state-chartered charter schools. Removing the PEDs authority to make recommendations to the PEC will also stymie the PED's ability to impact the academic performance of charter schools.

## **ADMINISTRATIVE IMPLICATIONS**

SB193 would require the PED to provide the PEC with all information related to the administration of charter schools necessary for the PEC to carry out its duties regarding the oversight and approval, denial, suspension and revocation of charters of state-chartered charter schools. This will require the PEC to establish information needs and processes. It will also require the PED and PEC to establish information sharing practices and processes. This will require substantial administrative time, with a decrease in the funding for PED to complete the required work.

SB193 provides a funding allocation to the PEC, this will require administrative processes both at the PED and PEC to administer the funds. This will require additional auditing of PEC funds and may make the PEC an additional component unit of the PED. No additional funding or allocation is provided to administer these funds.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB193 conflicts with the provisions of NMSA 9-24-9. That statute identifies that the Public Education Commission is administratively attached to the PED and that administrative staff is provided by the PED to the PEC. The statute also provides that additional requests for staff services shall be made through the Secretary. SB193 eliminates current language that comports with 9-24-9 and required the PED to provide support staff to the PEC, but does not remove the language from 9-24-9.

SB193 conflicts with 22-8-39, which requires the PED to make recommendations of revocation to the PEC in certain cases. SB193 eliminates the authority of PED to make recommendations to the PEC.

## **TECHNICAL ISSUES**

SB193 references all information necessary without defining that information. SB193 also does not define the responsibilities of the PEC that are to be carried out with the transferred funds. SB

193 does not identify if the PEC would remain administratively attached and if the PEC would be a component unit of the PED. SB193 does not identify how the current responsibilities of the PED would be decreased in response to the decreased funding.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The PED will continue to provide staff support, information and recommendations to the PEC to enable the PEC to carry out its authorizing functions including the oversight, approval, denial, renewal, revocation, or suspension of charter schools. The PED will continue to be funded to support the administratively attached PEC and to provide technical assistance to state-chartered charter schools.

The PED will continue to work to improve the academic and audit performance of state-chartered charter schools, and all charter schools throughout the state.