

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HB 192

**50th Legislature, 1st Session, 2011**

**Tracking Number:** .184305.2

**Short Title:** Charter School Enrollment Preferences

**Sponsor(s):** Representative Rhonda S. King

**Analyst:** David Harrell

**Date:** February 18, 2011

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**Bill Summary:**

HB 192 amends the enrollment provisions for conversion charter schools in the *Charter Schools Act* to grant enrollment preference, not only in the year of conversion but also in all subsequent years of operation, to students who reside within the conversion charter school's district-designated attendance zone.

**Fiscal Impact:**

HB 192 makes no appropriation.

**Fiscal Issues:**

As explained under "Substantive Issues," below, HB 192 would likely jeopardize a conversion charter school's eligibility for federal funds through the Charter School Program.

**Substantive Issues:**

HB 192 conflicts with federal law and with guidance issued by the US Department of Education (USDE), which require that charter schools that are "oversubscribed" – in that the number of applicants exceeds the school's capacity – must conduct a lottery to afford all applicants an equal chance at admission.

- The USDE does allow certain categories of applicants to be exempted from the lottery – among them, "(a) students who are enrolled in a public school at the time it is converted into a public charter school [emphasis added]; (b) siblings of students already admitted to or attending the same charter school . . ." – but otherwise, "A charter school receiving CSP [Charter School Program] funds must use a lottery if more students apply for admission to the charter school than can be admitted."
- As the analysis of HB 192 by the Public Education Department (PED) notes, the initial enrollment preference applicable to conversion charter schools "is not permitted for subsequent enrollment periods."

Given these provisions, HB 192 would make conversion charter schools in New Mexico ineligible for federal funds.

The “Background” section of this analysis, below, provides additional information about the issue that HB 192 addresses and about amendments to state law, as advised by the USDE, to comply with the federal requirements for a lottery.

**Background:**

During the 2010 interim, the Legislative Education Study Committee (LESC) heard testimony on the issue addressed by HB 192 from a member of the Board of Education, Santa Fe Public Schools (SFPS), who expressed concerns about enrollment at Turquoise Trail Elementary School, a conversion charter school authorized by SFPS. Because the number of students seeking enrollment there exceeds the school’s capacity, Turquoise Trail holds an enrollment lottery as required under state and federal law and regulations. Through this process, however, this testimony continued, many students who reside within the school’s former attendance zone (as defined when it was a traditional public school, before conversion to charter status) must be bused to other elementary schools.

The board member asked that the LESC consider proposing an amendment that would require a conversion charter school to grant continuing enrollment priority to students residing in the school’s attendance zone. However, the committee took no action on this proposal after hearing staff testimony about the federal requirements noted above and testimony from the Principal of Turquoise Trail Elementary School, who noted that, to some extent, enrollment provisions constitute a trade-off in that Turquoise Trail helps relieve overcrowding in other elementary schools by admitting students from those schools’ attendance zones.

Under the provisions of the *1999 Charter Schools Act*, enrollment in charter schools was done on a first-come, first-served basis. However, during the 1999 interim, the LESC learned that this enrollment provision conflicted with the federal requirement that, to be eligible for federal charter school funds, charter schools must enroll students on the basis of a lottery if the number of applicants exceeds the school’s capacity. As a result, during the 2000 session, LESC-endorsed legislation was enacted to amend the enrollment provisions to accommodate a lottery and to comply with federal requirements.

**Related Bills:**

HB 97a *Charter School Conversion Attendance*