

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; REQUIRING CHARTER SCHOOLS TO VERIFY TO THEIR CHARTERING AUTHORITIES THAT THEY ARE MEETING FEDERAL GRANT REQUIREMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-8B-13 NMSA 1978 (being Laws 1999, Chapter 281, Section 13, as amended) is amended to read:

"22-8B-13. CHARTER SCHOOL FINANCING.--

A. The amount of funding allocated to a charter school shall be not less than ninety-eight percent of the school-generated program cost. The school district or division may withhold and use two percent of the school-generated program cost for its administrative support of a charter school.

B. That portion of money from state or federal programs generated by students enrolled in a locally chartered charter school shall be allocated to that charter school serving students eligible for that aid. The charter school shall verify to its chartering authority that it has met federal grant compliance requirements. Any other public school program not offered by the locally chartered charter school shall not be entitled to the share of money generated by a charter school program.

C. When a state-chartered charter school is

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: HB 522a

51st Legislature, 1st Session, 2013

Tracking Number: .192885.1

Short Title: Charter Schools Federal Grant Requirements

Sponsor: Representative Mimi Stewart and Others

Analyst: David Craig

Date: March 7, 2013

AS AMENDED

The House Floor Amendment fixed a typographical error.

Bill Summary:

HB 522 amends a section of the *Charter Schools Act* to require a locally chartered charter school to verify to its chartering authority that it has met federal grant compliance requirements.

Fiscal Impact:

HB 522 does not contain an appropriation.

Substantive Issues:

Independent audits consider charter schools to be component units of their authorizers according to criteria set forth in the Government Accounting Standards Board's (GASB) statements.

When classified as component units, charter schools function as part of the chartering authority's financial operations, whether local school boards in the case of a locally chartered charter school or the Public Education Commission (PEC) in the case of a state-chartered charter school. Because the PEC is administratively attached to the Public Education Department (PED), the state-chartered charter schools have been considered component units of PED's financial operations.

Auditors of chartering authorities present component units separately in the government-wide financial statements to emphasize that they are legally separate from the government. However, given the component unit relationship, a charter school's noncompliance with federal grant requirements could affect the chartering authority's federal grant award.

Aside from the independent auditor's single audit of federal funds under the provisions of OMB Circular A-133¹, there are few state legal requirements for charter schools to report on the use or compliance of federal grant awards to the chartering authority.

¹ The federal OMB Circular A-133 is titled "Audits of States, Local Governments, and Non-Profit Organizations" and sets forth standards for obtaining consistency and uniformity for the audit of States, local governments, and nonprofit organizations expending Federal awards. Among other requirements, non-federal entities that expend

LFC Requester: Rachel Gudgel

AGENCY BILL ANALYSIS
2013 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

And

DFA@STATE.NM.US

PED ANALYSIS

{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}

Date

Prepared: Feb 13, 2013

Bill No: HB 522

Check all that apply:

Original Amendment

Correction Substitute

Sponsor: Rep. Mimi Stewart

Reviewing

Aguilar

Agency:

Short Title: Requiring Charters to Meet Federal Requirements

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Analysis:

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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications Below				

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 522 requires charters schools to verify to their authorizers that they have met federal grant compliance requirements.

FISCAL IMPLICATIONS:

No fiscal implications are noted.

SIGNIFICANT ISSUES:

Locally chartered charter schools are component units of the district that authorized their creation.

In the case of state chartered charter schools, these schools are component units of the Public Education Department not the Public Education Commission.

The department is responsible for ensuring federal compliance activities are implemented and as such, these schools should verify to the department their compliance. This is already done for state chartered schools as part of the sub-recipient monitoring process that the PED has in place.

PERFORMANCE IMPLICATIONS:

The provision contained in this bill implicate PED's strategic lever #1 - Smarter Return on New Mexico's Investment and strategic lever #2 - Real Accountability. Real Results.

ADMINISTRATIVE IMPLICATIONS:

Local Charters and authorizers will have to work out protocols of how to verify that charters have met federal grant compliance requirements and how to inform stakeholders that it is completed.

For state chartered charter schools, this oversight mechanism is already in place.

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 FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Stewart ORIGINAL DATE 02/28/13 LAST UPDATED 03/05/13 HB 522/aHFI#1
SHORT TITLE Charter Schools Federal Grant Requirements SB _____
ANALYST Roberts

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Public Education Department (PED)

SUMMARY

Synopsis of HFI Amendment #1

The House Floor amendment #1 to House Bill 522 is a technical correction in which on page 2, line 4, strike "is" and insert in lieu thereof "it."

Synopsis of Original Bill

House Bill 522 amends the Public School Code to add language: "The charter school shall verify to its chartering authority that it has met federal grant compliance requirements." Further, the bill strikes the word "local" in section E.

FISCAL IMPLICATIONS

No fiscal impact.

SIGNIFICANT ISSUES

The PED notes that the Department is responsible for ensuring federal compliance activities are implemented and that schools verify to the Department their compliance. This is already done for state chartered schools as part of the sub-recipient monitoring process that the PED has in place.

ADMINISTRATIVE IMPLICATIONS

The PED notes that there is no significant impact, as charter schools already follow federal grant requirements.

MIR/svb