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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/2007

SPONSOR Asbill LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Charter School Enrollment Limits SB 1147

ANALYST Aguilar

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 1245

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

Senate Bill 1147 provides that after June 30, 2007 applications for new charter schools will not be made if the proposed enrollment of the proposed charter school when combined with all other charter school in the school district would equal or exceed ten percent.

The bill also provides that school districts with a total student membership of 1,300 or less will not approve applications for new charter schools until July 1, 2007.

The bill declares an emergency.

### SIGNIFICANT ISSUES

Provisions contained in this bill restricting the approval of charter schools for districts with 1,300 or less in student enrollment until July 1, 2007 will affect 52 school districts using the 2005-2006 school year final funded run as provided by PED.

The relationship of SB-1147 to Section 22-2C -7.I NMSA 1978 may need to be clarified. Section 22-2C-7.I states that public schools that have failed to make adequate yearly progress for five years may be reopened as charter schools. Would SB-1147 affect the option of small districts in terms of reopening failing schools if the total membership of those schools equaled or exceeded 10% of total student enrollment?

In addition, HB-34a/SB-287a includes an amendment to change Section 22-2C-7.I NMSA 1978 so that if a school fails to make adequate yearly progress for six years and is placed in restructuring 2, that school has the option of being reopened as a state chartered charter school. If both HB-34a and SB-1147 are passed, will SB-1147 limit the options of small districts with schools in restructuring 2?

## **TECHNICAL ISSUES**

The Public Education Department reports the following concerns:

The Temporary Provision is problematic if it changes the rights of any person in a pending matter. Consider the following:

1. If a charter application has been filed and is currently pending, the temporary provision in the bill implicates Article IV, Section 34 of the New Mexico Constitution, which provides that no act of the Legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure, in any pending case.
2. If a charter application has been filed and is currently pending, the temporary provision also implicates Article IV, Section 24 of the New Mexico Constitution, which prohibits the Legislature from enacting special laws pertaining to, among many categories, the management of public schools. "Special laws are those made for individual cases, or for less than a class requiring laws appropriate to its peculiar condition and circumstances." *Crosthwait v. White*, 55 N.M. 71, 226 P.2d 477 (1951).

PA/csd