

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number: SB 141a**

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

**Tracking Number: .183635.1**

**Short Title: No Education Dept. Auditor Approval**

**Sponsor(s): Senator Cynthia Nava and Representative Jimmie C. Hall**

**Analyst: Eilani Gerstner**

**Date: February 16, 2011**

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**FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

**AS AMENDED**

**The Senate Education Committee amendments:**

- **delete the reference to a charter school in the title; and**
- **add language to require a state-chartered charter school to receive approval of its selected independent auditor from the Public Education Department.**

**Original Bill Summary:**

SB 141 amends the *Audit Act* to remove the requirement that agencies subject to oversight by the Public Education Department (PED) receive approval from the department prior to submitting a recommendation for an independent auditor to the Office of the State Auditor (OSA).

**Fiscal Impact:**

The bill does not contain an appropriation.

**Fiscal Issues:**

The PED analysis of SB 141 states that:

- the department must approve state-chartered charter schools' selection of an auditor; however,
  - **according to OSA's audit rule, state-chartered charter schools are component units of PED and therefore must be audited by the auditor selected by PED;** and
- there would be an increase in cost if each state-chartered charter school selected a different auditor; however,
  - the provisions in SB 141 do not change the current requirement by OSA that state-chartered charter schools be audited as component units of PED.

From one perspective, removal of the requirement that both PED and OSA must approve the selection of an independent auditor could result in a more efficient and streamlined audit process.

**Background:**

During the 2010 legislative session, the LESC endorsed SJM 24, *Study School District Finances & Operations*, requesting that the Office of Education Accountability, in collaboration with PED and in consultation with the OSA, form a work group to examine public school finance issues.

Although the joint memorial did not pass, in keeping with the LESC’s focus on public school finances during the 2010 interim, the LESC requested that an LESC work group be formed to “evaluate the adequacy and effectiveness of New Mexico’s laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide.”

The LESC requested updates on the progress of the work group at each interim meeting, with a final report to the LESC in December 2010.

The Attachment to this bill analysis includes the membership of the work group.

***Activities of the LESC School Finance Work Group***

The activities of the work group included:

- reviewing laws, rules, and policies governing school finance, including the implementation of two provisions effective in 2010 that:
  - require local school boards and charter school governing bodies to create finance subcommittees and audit committees; and
  - allow PED to impose sanctions for failure of school districts or charter schools to submit timely audits to the State Auditor, including withholding up to 7.0 percent of a school district’s or charter school’s State Equalization Guarantee distribution and suspending the board of finance, effective July 1, 2010;
- investigating whether the tiered audit process for local public bodies, effective July 1, 2010 or a similar tiered audit process may be appropriate for public schools;
- reviewing current licensing and training requirements for school business officials and current training offered for boards of finance;
- investigating the availability of qualified school business officials and independent auditors with a focus on the needs of small, rural school districts;
- examining the internal financial controls within school districts and charter schools, including segregation of duties and the bank reconciliation process; and
- examining the supply and demand of school business officials, including the capacity of institutions of higher education to train future school business officials.

As a result of presentations and discussions during the 2010 interim, the work group agreed that the requirement that PED approve school districts' independent auditor selection was a duplication of effort that could be eliminated.

### ***Recommendations of the LESC School Finance Work Group***

SB 141 is one of the recommendations of the LESC School Finance Work Group.

The other recommendations of the work group endorsed by the LESC during the 2011 legislative session are:

1. Amend the *School Personnel Act* (**provisions in SB 203a, *School Business Official Licensure***) to require PED to:
  - provide by rule for licensure of school business officials (SBOs), including initial and continuing licensure, competencies, ethics and reporting requirements, and a savings clause;
  - track the denial, suspension, or revocation of SBO licenses and determine if these actions occur in a timely manner;
  - assess the quality of and enforcement of training requirements for SBO licensure; and
  - require mandatory training for superintendents on the evaluation of SBOs, including training in the assessment of SBO competencies.
2. Amend the *School Personnel Act* to add “financial malfeasance or misfeasance” to the definition of “ethical misconduct” in current law. (**Provisions in SB 143, *Define School Personnel “Ethical Misconduct”***)
3. Include language in the *General Appropriation Act* to transfer the positions (six) in the Office of Inspector General at PED to the Office of the State Auditor for education-related reviews. (**Letter sent to the House Appropriations and Finance Committee**)
4. Introduce a joint memorial requesting that PED, in collaboration with the Office of Education Accountability, the Office of the State Auditor, Regional Education Cooperatives, Cooperative Educational Services, and other stakeholders to determine the cost and feasibility of (1) consolidating certain business services for small school districts, (2) providing support services to small districts through a regional system, and (3) operating one or more pilot projects to determine the effectiveness of such proposals; and provide a report to the LESC before October 31, 2011. (**Provisions in HJM 11a, *Small School District Service Consolidation***)

### **Related Bills:**

SB 143 *Define School Personnel “Ethical Misconduct”*

SB 203a *School Business Official Licensure*

HJM 11a *Small School District Service Consolidation*