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## FISCAL IMPACT REPORT

**SPONSOR** Ivey-Soto/Adkins      **ORIGINAL DATE** 2/04/18  
**LAST UPDATED** 2/14/18      **HB** \_\_\_\_\_

**SHORT TITLE** School Personnel Background Checks      **SB** 234/aSEC

**ANALYST** Liu

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	\$50.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		
	\$0.0 - \$225.5		Nonrecurring	Law Enforcement Records Bureau Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Legislative Education Study Committee (LESC) Files

#### Responses Received From

Children, Youth and Families Department (CYFD)  
 New Mexico School for the Blind and Visually Impaired (NMSBVI)  
 Regional Education Cooperatives Association (RECA)  
 Public Education Department (PED)

#### No Responses Received From

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of SEC Amendment

The Senate Education Committee (SEC) amendment to Senate Bill 234 makes a \$50 thousand appropriation from the general fund to PED to administer fingerprint-based background checks for employees of school districts, charter schools, and regional education cooperatives who have

been employed by those entities since 1997. The appropriation is for FY19, with any unexpended or unencumbered balance reverting to the general fund at the end of the fiscal year.

### Synopsis of Original Bill

Senate Bill 234 amends the Public School Code relating to school personnel, requiring all school district, charter school, or regional education cooperative applicants for employment and other persons allowed unsupervised access to students be subject to a fingerprint-based background check, regardless of their date of hire. The bill provides that new school employees shall not be hired and current employees shall not continue employment without first completing a background check. The bill requires licensed school employees to self-report felony or moral turpitude misdemeanor convictions and subjects alternative or temporary teaching licensees to all of the aforementioned requirements. The term ‘background check’ is further defined and clarified.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. PED and RECA analyses from 2016 indicate the bill has no adverse fiscal impacts on operating budgets, as the cost burden falls on the employee or applicant. Sections 22-10A-5 (B) and (D) NMSA 1978 already require the applicant for initial licensure to pay for the cost of FBI investigation records.

In a 2017 DPS analysis, the agency confirmed that a fee of \$44 is charged for each fingerprinting-based background check. Of that total, \$14.25 is paid to the FBI for the federal criminal history check, and \$29.75 goes to the law enforcement records bureau fund (LERBF) to cover DPS’s processing and administrative fees. PED and DPS reported there were 5,253 new district and charter school employees in FY15 and 85 employees that failed to complete their background check. Assuming a similar number of employees failed to complete their background check in FY19, the provisions of this bill could increase revenues to the LERBF. It is unclear how many current public school employees referenced in this bill have not completed fingerprint-based background checks, which would impact the estimated revenue to the LERBF.

According to data provided by PED, there are approximately 7,580 non-certified FTE in public schools. These school personnel include health assistants, crosswalk guards, custodians, food servers, and other non-instructional support roles. If all non-certified school personnel needed to complete a background check, the estimated revenue impact could be up to \$225.5 thousand.

### **SIGNIFICANT ISSUES**

On January 28, 2016, PED and DPS issued a comprehensive report of school background check policies that noted:

- Of 188 school districts and state-chartered charter schools, 183 submitted board-approved background check policies, while one school district and four charter schools failed to make these submissions;
- 184 school districts and state-chartered charter schools submitted assurances that their board approved background check policies comply with state law, and that they are in compliance with these policies, while one school district and three state-chartered charter schools failed to make these assurances;
- School districts and state-chartered charter schools reported that 14 of 1,758

administrators do not have a required background check on file, and two school districts and seven state-chartered charter schools failed to report data on administrators; and

- School districts and state-chartered charter schools reported that 71 of 5,253 newly hired employees do not have a required background check on file, and three school districts and six state-chartered charter schools failed to report data on newly hired employees.

PED cites recommendations from the National Center for Missing and Exploited Children, which suggests that states should conduct national fingerprint checks on all employees who have contact with children, including teachers, volunteers, contractors, and other school employees. Further, states should require regular checks on current school employees every year or two after initial hire, more frequently than most states currently require.

### **ADMINISTRATIVE IMPLICATIONS**

LESC notes administrative impacts under the bill affecting school districts and RECs should be minimal, as these entities have already been performing most of the requirements outlined in the bill. Charter school governing bodies would be required to develop their own policies and procedures to administer the required background checks.

SL/al/jle