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F I S C A L I M P A C T R E P O R T

		LAST UPDATED	
SPONSOR	Maestas	**ORIGINAL DATE**	2/20/23
SHORT TITLE	Charter School & Chartering Authority Audits	**BILL NUMBER**	Senate Bill 466
		ANALYST	Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate but minimal				

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to HB85, HB143, HB325, HB375, HB396, SB422, SB438

Sources of Information

LFC Files

Responses Received From
State Auditor (OSA)

No Response Received
Public Education Department (PED)

SUMMARY

Synopsis of Senate Bill 466

Senate Bill 466 requires each charter school to pay for and have a separate audit from its chartering authority and requires all charter schools to have their own board of finance. This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

The bill does not include an appropriation but requires each charter school to pay for an audit separately from its chartering authority. In FY22, all 96 charter schools spent a collective total of $1.5 million on auditing services, ranging from $4,903 to $25 thousand. Because each charter school is already paying for auditing costs individually, it is unlikely provisions of this bill would create additional operating budget impacts. All authorizers (PED and school districts) are also paying for audit services currently, so additional costs are likely minimal.

SIGNIFICANT ISSUES

State-authorized charter schools are authorized by the Public Education Commission (PEC) and are considered component units of PED's audit each year. Many of PED's audits have included material weaknesses and findings due to a lack of financial oversight of charter schools. PED's FY19 audit included three noncompliance findings for the department and Department of Vocational Rehabilitation, which is administratively attached to PED, and 152 findings for the 51 PEC-authorized charter schools. The 152 findings included 14 material weaknesses, 16 significant deficiencies, and 125 issues of noncompliance.

Provisions of this bill would require each charter school's governing body to qualify for designation as a board of finance. Failure to do so would constitute grounds for charter denial, nonrenewal, or revocation. The bill requires locally-chartered charter schools and existing charter schools to qualify as boards of finance by July 1, 2024, and applicants for new charters must qualify prior to final contracts being signed or charters being renewed. Failure to meet this deadline would disqualify the charter school for operations.

Current law requires all school district boards and PEC-authorized charter school governing bodies to be designated as boards of finance. Local school boards are designated by PED and state charters are designated by PEC. Provisions of this bill would require all district (or locally) authorized charters to have a designated board of finance. To be designated, the governing body of the charter school must:

- Show that it has personnel properly trained to keep accurate and complete fiscal records,
- Agree to consult with PED on matters not covered by the manual of accounting and budgeting before taking any action relating to funds held,
- Bond persons handling these funds adequately to protect the funds entrusted to them from loss, and
- Not previously been a governing body (nor have governing members) of a charter school that was previously suspended and not reinstated as a board of finance.

ADMINISTRATIVE IMPLICATIONS

OSA notes charter schools are separately audited but are not currently required to have separate, standalone audits. The bill will also allow for the charter schools to select their own auditors; however, charter school audited financial information must ultimately be reported in the chartering authority's audited financial statements. If the data is conflicting, or does not reconcile, delays may result as well as additional costs. Provisions of this bill may also require updates and changes to the Audit rule in 2.2.2.1 NMAC through 2.2.2.16 NMAC, which addresses charter school audits.

RELATIONSHIP

This bill relates to House Bill 85, which limits district enrollment to 40 thousand students; House Bill 143, which restricts charter school lease assistance uses; House Bill 325, which changes school board member requirements; House Bill 375, which requires charter authorizers to report oversight and expenditure plans; House Bill 396, which increases school board member term lengths; Senate Bill 422, which caps charter school enrollment to 10 percent of each district's enrollment; Senate Bill 438, which limits expenditures on school administration; and Senate Bill 466, which separates charter school audits from the chartering authority's audit.

OTHER SUBSTANTIVE ISSUES

In 2022, OSA completed a special audit of the GREAT Academy, a state-chartered charter school in Albuquerque, which found the charter funneled dollars through its foundation to provide additional contracts and bonuses to the school's husband-and-wife founders. Between FY17 and FY22, the charter's foundation, which owns the school building, received about $2.3 million from the charter school for lease payments. The foundation spent $1 million on the building mortgage and maintenance, $757 thousand on professional services and school support, and $138.7 thousand on travel and operational expenses. About $228 thousand of the foundation's professional services payments went to the school's two founders in the form of consulting contracts and bonuses. The two founders are also school administrators already on the charter school's payroll, meaning the couple received double compensation.

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