

<b>LFC Requester:</b>	<b>Sunny Liu</b>
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**AGENCY BILL ANALYSIS  
2018 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{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}*

*Check all that apply:*

**Original**     **Amendment**    \_\_\_\_\_    **Date** 02/05/18  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_    **Bill No:** SB234

**Sponsor:**    Sen. Daniel A. Ivey-Soto    **Agency Code:**    924  
                   Rep. David E. Adkins  
**Short**        SCHOOL PERSONNEL    **Person Writing**        Matt Montaña  
**Title:**        BACKGROUND CHECKS    **Phone:**                \_\_\_\_\_ **Email**                \_\_\_\_\_

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY18	FY19	FY20		

(Parenthesis ( ) Indicate Expenditure Decreases)

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### SECTION III: NARRATIVE

#### **BILL SUMMARY**

Synopsis: Senate Bill 234 (SB 234) amends the Public School Code to require that all school district, charter school or regional education cooperative applicants for employment applicants, and other persons with unsupervised access to students be subject to fingerprint-based background checks. The bill defines “background check” as a process approved by the Public Education Department (PED) requiring all applicants and school district employees to submit a full set of fingerprints, so that a state and national criminal history check may be completed. In all cases, the applicant’s or school employee’s fingerprints shall be submitted to the federal bureau of investigation to obtain the applicant’s or school employee’s national criminal history background check.

SB 234 amends the School Personnel Act to require all charter school governing bodies to develop policies and procedures to require background checks of their employees and other persons allowed unsupervised access to students of public schools, as is already required of local school boards and regional education cooperatives (RECs). No person may be hired without having completed **& satisfactorily** cleared the background check **for the department (PED)**.

The bill further requires all school district and charter school employees, regardless of their date of hire, **with no FBI Background on file or valid with the department (PED)**, to undergo a fingerprint-based background check, and requires any licensed employee who has been convicted of a felony or misdemeanor involving moral turpitude to report the conviction to a designated administrator.

Finally, the bill requires the background check of all persons seeking an alternative level 1 license, or any deaf or hard of hearing person seeking any level alternative license.

#### **FISCAL IMPLICATIONS**

SB 234 does not contain an appropriation.

#### **SIGNIFICANT ISSUES**

The National Center for Missing and Exploited Children 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.

SB 234 expands current requirements for background checks to establish a mandatory reporting requirement for all licensed school employees who have been convicted of any felony or misdemeanor involving moral turpitude to report the conviction to a designated administrator.

Current requirements place the onus of reporting school employees' convictions to PED on superintendents, charter school administrators, and RECs, and allow the Secretary of Public Education to suspend, revoke, or refuse to renew the license of an administrator who fails in their duty to report these convictions. However, the expanded requirement for licensed employees to report any of their felony or misdemeanor convictions to a designated administrator does not appear to include any sanctions for noncompliance.

## **PERFORMANCE IMPLICATIONS**

### **ADMINISTRATIVE IMPLICATIONS**

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.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

### **TECHNICAL ISSUES**

The definition of "background check" applies to applicants and school district employees, but contains no reference to charter school employees.

### **OTHER SUBSTANTIVE ISSUES**

Page 2, Section 2 (1) states that the employee shall not be hired without first having completed a background check prior to entering the system. However, the department requires a completed background check for licensure application.

On January 28, 2016, PED and the Department of Public Safety 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.

## **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The current school personnel act would still be in effect.

## **AMENDMENTS**

### **SOURCES OF INFORMATION**

- LESC Files