

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2019 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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and

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{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	<input checked="" type="checkbox"/>	Amendment	<input type="checkbox"/>	Date	<u>2/19/19</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>SB315</u>

Sponsor:	<u>Sen. Bill B. O'Neill and Rep. Linda M. Trujillo</u>	Agency Code:	<u>924</u>
Short Title:	<u>CREATE NM SCHOOL FOR THE ARTS</u>	Person Writing	<u>fsdfs</u>
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SJR 9, SB245, SB 1
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SB315 proposes changes to the Public School Code, including several changes to the New Mexico School for the Arts Act, 22-15F NMSA 1978, which would change the status of the school from a state-authorized charter school to a "special statewide residential public high school." The school's governing board would be appointed by the Governor and report to the legislature. The bill also proposes changes to the Public School Capital Outlay Act, 22-24 NMSA 1978, the Public School Capital Improvement Act, 22-25 NMSA 1978, and the Public School Buildings Act, 22-26 NMSA 1978.

FISCAL IMPLICATIONS

SB315 includes new language to the New Mexico Schools for the Arts Act, 22-15F NMSA, providing that the school shall receive operational and capital funding in the same manner as other public schools (p. 11, lines 23-24). Later in the bill, new language is included in the Public School Capital Outlay Act, 22-24 NMSA 1978 that would include the New Mexico School for the Arts in the definition of "special schools" (p. 16, lines 17-18).

SIGNIFICANT ISSUES

The main change in SB 315 is changing 22-15F NMSA 1978 to amend the school's designation from a "statewide residential state-chartered charter high school" that reports to the Public Education Commission (PEC), its chartering authority, to "a statewide residential public high school" that is governed by a Governor-appointed board that reports to the legislature. The proposed bill inserts the word "public" in 22-15F NMSA 1978 so that the school could be added to the amended definition of "public school" in the definitions section of the Public School Code, 22-1-2 NMSA 19798 (p.3, lines 17). Charter schools are already included in the definition of public schools.

However, in the amended language proposed for the Public School Capital Improvements Act, 22-25 NMSA 1978, new language defining "charter school" includes the New Mexico School for the Arts (p.20, lines 8-10). Similarly, the Public School Buildings Act, 22-26 NMSA 1978, is also amended to a new definition for "charter school" that includes the New Mexico School for the Arts (p. 22, lines 12-13).

Taken together, the Sponsors' intent to designate the school as a special school in one section of the Public School Code (22-15F NMSA 1978) and deem it a charter school to make it eligible for public school capital outlay (22-25 NMSA 1978) and improvement (22-26 NMSA 1978) support under those statutes appears to create inconsistent definitions across the statutes where the school is a special school in some places and charter school in others. The Sponsors' may wish to amend the language so that its consistent in all Public School Codes. If the intent is to ensure the New Mexico School for the Arts retains its eligibility like charter schools for public school capital outlay, improvement and building support, then these statutes should be amended to reflect the intended changes rather than continue to refer to the school in these statutes as a charter school.

PERFORMANCE IMPLICATIONS

If this bill is enacted, the oversight related to the school's performance and board governance would more than likely be measured differently. As a state-authorized charter school, the New Mexico School for the Arts is subject to the Charter School Act, 22-8B NMSA 1978, its executed charter contract with its chartering authority (Public Education Commission), and any additional policies approved by the PEC. Under its current governance, the schools must meet the standards set by the PEC and its approved charter school performance framework, as outlined in 22-8B-9.1 NMSA 1978. Specifically, Section B states the following:

Annual performance targets shall be set by each chartering authority in consultation with its charter schools and shall be designed to help each charter school meet applicable federal, state and chartering authority expectations as set forth in the charter contracts to which the authority is a party.

Since the school would no longer be a state-authorized charter school subject to the charter performance framework in state statute or to stipulated goals in its charter contract, it is unclear that any board-required annual reporting to the Governor or legislature would include relevant information pertaining to the school's academic, organizational, or financial performance. SB 315 does not amend this section of the New Mexico School for Arts Act to include any performance measures, leaving only reporting on demographic data. As state-authorized charter school, the PED's CSD provides comprehensive reporting on academic, organizational and financial performance as required per state statute and PEC policy.

Further, since the proposed change in school status from a state-authorized charter school to "special statewide residential public high school" governed by a nine-person board appointed by the Governor, neither the school nor its board would be subject to any provisions of the Charter Schools Act, 22-8B NMSA 1978 but would instead be subject to provisions of the Public School Code (p. 11, lines 13-17), including all those applicable and enumerated in 22-5 NMSA 1978 regarding local school boards (p. 13, lines 3-4), and those enumerated in 22-2-14 NMSA 1978 shall also apply. The Board of Education for the New Mexico School for the Arts would be required to qualify as a board of finance and be subject to all statutes and applicable regulations.

ADMINISTRATIVE IMPLICATIONS

If enacted, this bill would have immediate administrative implications for the school's governance, immediately sending it into transition as required by Section 13 of the bill (beginning on p. 22, line 14). The bill proposes to have the school report directly to the Governor and the legislature instead of reporting to the Public Education Commission as its authorizer. In

December 2018, the PEC approved the charter renewal application submitted by the New Mexico School for the Arts and a new 5-year term is set to begin on July 1, 2019. To date, a renewal charter contract has not yet been executed between the two parties. The proposed language in the bill states the new school status would go into effect on July 1, 2019. While the school may have currently board members, additional members may need to be appointed at that time to conform the proposed requirements in Section 13 (p. 22 lines 14-25), a nine (9) member Governing Board for the school would be appointed by the Governor, with consent from the senate, from a list of names provided by the school.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The New Mexico School for the Arts Act, 22-15 F NMSA 1978 had already created notable differences between it and other charter schools. Chapter 22, Article 15F states:

The commission may charter a "New Mexico school for the arts" as a statewide residential state-chartered charter school for grades nine through twelve to offer intensive pre-professional instruction in the performing and visual arts combined with a strong academic program that leads to a New Mexico diploma of excellence.

This allows the school to operate as a charter school with exemptions from the requirements of other charter schools, specifically admission requirements, and enrollment procedures. Also, per NMSA 22-15F-7, the school is allowed to charge residential students fees to cover room and board, unlike other public schools. Additional proposed changes the New Mexico School for the Arts Act only solidifies how this school was not required to operate like other charter schools, given its special exemptions from provisions of the Charter Schools Act. Given that the school would no longer be a designated a charter school and that its board structure would also change, the school's organizational and fiscal performance would be subject to Department oversight as other local school boards are.

The Sponsor should also consider the proposed changes in SB 1 since it makes amendments to the Public School Finance Act pertaining to operating budgets and educational plans that would also apply the newly proposed "statewide residential public high school" since it would have the "powers and duties of a public school and a school district" (p. 3, lines 1-4). Additionally, the Sponsors may wish to consider other proposed bills such as SJR 9 (Public Education Commission) and SB 245 (Charter School Facilities & Capital Funds) since there may be implications that would apply to the school regardless of designation.

TECHNICAL ISSUES

Please see the *Significant Issues* section for concerns regarding the conflicts in definitions proposed for the New Mexico School of the Arts in various chapters of the Public School Code that appear to be at odds.

Also, definition AA (p.5, lines 19-24) requires a period after the last word "teachers" since the next two definitions are deleted in the proposed language.

OTHER SUBSTANTIVE ISSUES

While New Mexico does not currently offer any other *magnet* type of high schools, the re-constituted New Mexico School for the Arts could potentially serve as a model for residential

intensive career-focused high schools. For example, a residential school could be created to focus on health care careers, or on aeronautical engineering. Immersive, project-based learning has a strong evidence base for engagement and student completion. Selectively approving such institutions could help New Mexico develop an industry-responsive workforce that might fuel targeted economic development efforts.

The proposed changes to the New Mexico School for the Arts Act identifies the school as a separate type of school rather than continue to provide the school exemptions to the Charter School Act, treating the school much differently than either public traditional or charter schools in the state. From the governance structure to public support, the New Mexico School for the Arts has and will continue to receive considerations that no other public school receives. While this move may be seen as protecting the state's interest, it would also be important to note that creating legislation for the unique circumstances of one school may set precedent with unintended consequences. For example, this bill encourages other niche schools, including private educational institutions, to pursue similar legislation to seek state funding and special exceptions, which may not be in the state's interest.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill is not enacted, the New Mexico School for the Arts would continue to function as a state charter school authorized by the PEC and required to continue following the charter school laws except with the exemptions currently allowed 22-15F NMSA 1978.

AMENDMENTS

See comments above in the *Significant Issues* section pertaining to the conflicting definitions of the New Mexico School for Arts defined as a "public school", a "special school" and a "charter school" as proposed in various sections of the SB 315 as amendments to several Public School Codes.