

LFC Requester:	Becerra
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**AGENCY BILL ANALYSIS
2021 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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**
Correction **Substitute**

Date 2/9/2021
Bill No: SB237

Sponsor: Sen. Linda M. Lopez
Short Title: CHARTER SCHOOL DUTIES

Agency Name and Code PED - 924
Number: _____
Person Writing: John Sena
Phone: 505-570-7816 **Email** John.Sena@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY21	FY22		
NFI	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23		
NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: SB51, Charter School Enrollment Preference; SB318, Charter School Changes; and HB32, Full-Time Nurse in Every School
Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 237 (SB237) proposes to amend the Charter Schools Act (CSA) to prohibit nepotism. Specifically, the bill states that a head administrator or governing body shall not initially employ or approve the initial employment in any capacity of a person who is an immediate family member of the head administrator or a member of the governing body or a charter school employee who would be a direct supervisor of the immediate family member. The bill proposes to require that if a charter school has employed an immediate family member of the head administrator, member of the governing body, or a direct supervisor, then the chartering authority would be required to be notified of those employees and their relationship with the head administrator, member of the governing body, or supervisor.

The bill proposes to further amend the CSA to expand a chartering authority’s powers to include: (1) overseeing the governing body’s compliance with federal and state laws and, if necessary, take action following the appropriate steps when the governing body is not operating pursuant to law or is violating policies and procedures in the charter; and (2) developing and maintaining charter policies and practices consistent with nationally-recognized principals and standards for quality charter authorizing to include governing body monitoring and intercession with a governing body, as necessary.

Additionally, SB237 proposes to amend the charter school contract to include a detailed description of how the chartering authority will use the withheld two percent to specifically be used to monitor and oversee the charter school and the governing body.

Finally, SB237 would require the chartering authority to follow its own policy on suspension, revocation, or nonrenewal.

FISCAL IMPLICATIONS

SB237 does not contain an appropriation.

The bill would require the charter school contract to include a detailed description of how the chartering authority will use the withheld two percent to monitor and oversee the charter school and the governing body. Requiring chartering authorities to use the two percent for monitoring and oversight may go beyond or be in conflict with statutory requirements in Section 22-8B-13 NMSA 1978, which calls for the two percent to be used for “administrative support of a charter

school.”

SIGNIFICANT ISSUES

Nepotism

The bill proposes a new charter school requirement to prohibit nepotism in order to align with current statute for school districts. Under Section 22-5-6 NMSA 1978, a local superintendent shall not initially employ or approve the initial employment in any capacity of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, or sister-in-law of a member of the local school board or the local superintendent. However, the bill does not allow for any waivers of the nepotism provisions; this differs from the ability of a local superintendent to waive the nepotism rule for family members of a local superintendent.

Governing body oversight

SB237 proposes expanding chartering authority duties beyond monitoring the performance and legal compliance of charter schools to overseeing the actions of a charter school’s governing body and interceding “as necessary.” Additionally, it includes provisions that would require a chartering authority to use two percent set-aside funds to monitor and oversee the charter school and the governing body. Currently, chartering authorities have no ability to oversee governing bodies, and the responsibility for overseeing governing bodies as boards of finance falls to the PED. It is unclear how the proposed changes would affect oversight of those functions.

Policies

Under SB237, the chartering authority would be required to follow its own policy on suspension, revocation, or nonrenewal. Renewal decisions are based on the statutory standards in Section 22-8B-12(K) NMSA 1978. Similarly, performance frameworks contents are defined in Section 22-8B-9.1 NMSA 1978, which includes a performance framework that is expected to be a material term of the contract between the chartering authority and the charter school. It is unclear how an explicit requirement to follow suspension and revocation policies would limit a chartering authority’s capacity for flexibility. If, for example, a charter contract contains terms connected to academic assessments, a chartering authority may lack the ability to waive those requirements under circumstances such as the COVID-19 pandemic.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB237 relates to SB51, Charter School Enrollment Preference; SB318, Charter School Changes; and HB32, Full-Time Nurse in Every School.

TECHNICAL ISSUES

The sponsor may wish to define “immediate family member” to ensure parity with local school

districts, whose family member prohibitions are detailed in Section 22-5-6 NMSA 1978.

Additionally, the sponsor may wish to include language (or keep current language) that would allow the charter school governing council to waive the nepotism rule for family members of a head administrator, which is currently what local school boards are allowed to do under Subsection B of Section 22-5-6 NMSA 1978.

OTHER SUBSTANTIVE ISSUES

Under SB237, the bill proposes to require the chartering authority to work with the charter school to alleviate or mitigate the effects of the nepotism, including identifying who the supervisor of record will be. Additionally, SB237 would not allow the governing body to waive the nepotism rule for family members of a head administrator after the effective date of the bill.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

N/A

AMENDMENTS

N/A