



LFC Requester: Liu

**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2025 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

*Check all that apply:*

Original        Amendment X  
Correction        Substitute       

Date Prepared: 03/07 /25

Bill No: [HB0365/aH1](#)

Agency Name and Code: PED - 924

Sponsor: Garratt

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**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	None	None

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	NFA

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	None	N/A	NFA

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

**Synopsis of House Floor Amendment:** The House Floor amendment to House Bill 365 (HB365/aH1) removes the original bill's requirement that the Public Education Department (PED) provide the Public Education Commission (PEC) and staff with adequate quarters. The amended bill would also require the PEC to provide technical support to all charter schools, not just state-chartered charter schools, as provided for in the original bill.

**Synopsis:** House Bill 365 (HB365) proposes to remove the PEC's [administrative attachment](#) to the Public Education Department (PED). The bill would replace the PED Charter Schools Division with a newly created State Charter Schools Office to staff the PEC.

The PEC would continue to act as the chartering authority for state-chartered charter schools, executing data-sharing agreements with PED. HB365 would direct CSD personnel, funds, records, equipment, and other assets be transferred to the proposed State Charter School Office (SCSO). Additionally, any contractual obligations of the CSD would become the responsibility of the SCSO, and all statutory references to the former division would be interpreted as referring to the newly established office.

The bill has an effective date of July 1, 2026.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

It is unclear from the language of the bill how the newly established office would be funded from year to year. No longer administratively attached to PED, the PEC would lack its own budgetary authority. Cabinet secretaries are empowered by the Executive Reorganization Act to prepare an annual budget for their agency. Administratively attached agencies, such as PEC, prepare their own budgetary requests for submission to their parent agency and inclusion in its overall budget. The bill would remove the PEC's administrative attachment to PED but makes no alternative provision for the preparation of its own budget. SCSO would no longer be a division of the PED and would lack PED funding in the future. Part of an agreement executed by PED and PEC is that the PED supports charter schools with staff and resources other than CSD staff and resources with the use of a portion of the SEG generated by charter school membership.

These funding issues will only be exacerbated by House Floor Amendment 1. The bill has never addressed the PEC's and SCSO's anticipated funding needs, and now directs PEC to support all charter schools, not just the state-chartered charter schools they authorize. PEC does not have access to the two percent state equalization grant (SEG) set-aside for charter school support for those locally chartered charter schools; local schoolboards are entitled to those funds for their support of the charter schools they authorize. The proposed SCSO and the PEC lack any mechanism by which they can create their own budget, and the SCSO will lack access to PED funds, leaving the PEC and SCSO with *only* the two percent SEG set-aside from their own state-chartered charter schools to fund their support for *all charter schools* within the state.

There are 17 fulltime CSD staff, at a cost of approximately \$2 million, annually. Decoupling the

CSD would have some inherent costs such as file transfer and maintenance, rent, and other operational costs that would be associated with the creation of the SCSO. Further, decoupling the CSD would still require other inherent costs for required programming such as accountability under ESEA, Title 1 programming, transportation, and other school features. Finally, the bill would remove the CSD and its staff and assets from the PED, while the PED still retains significant oversight and regulatory responsibilities over all public schools, including both locally and state-chartered charter schools.

## **SIGNIFICANT ISSUES**

While the proposed change would create significant fiscal and operational impacts to PED, the resulting effect of state-level governance of state-chartered charter schools upon student achievement is unclear.

The PEC would collaborate with PED for data-sharing and strategic planning, whereas currently, CSD has access to this information without contractual negotiations and obligations.

## **PERFORMANCE IMPLICATIONS**

If the PEC and the PED are creating conflicting regulation it may be difficult for school districts and charter schools to understand which regulations they should be adhering to and this may lead to lower student achievement.

## **ADMINISTRATIVE IMPLICATIONS**

Data-sharing and collaboration between PED and PEC staff would add additional administrative burden to both entities.

The CSD currently has a Governor-exempt FTE whose position would be unaffected by the changes proposed by HB365a/H1.

The New Mexico Public Education Commission (PEC) is established under Article XII, Section 6 of the New Mexico Constitution and operates pursuant to state statutes. It consists of ten elected members who annually elect a chair, vice-chair, and secretary from among themselves. The commission is required to meet at least quarterly, with meetings held in Santa Fe and other locations within the state as directed. Additionally, the PEC is responsible for developing rules of procedure and adhering to ethical conduct standards as overseen by the New Mexico State Ethics Commission. The PEC's current responsibilities include:

- **Advisory Role:** The PEC advises the PED on policy matters and collaborates with the department to develop a five-year strategic plan for public elementary and secondary education in the state. This plan is updated at least biennially and involves input from various stakeholders, including local school boards, charter schools, educational organizations, and the public.
- **Charter School Authorization and Oversight:** The PEC serves as the chartering authority for state-chartered charter schools in New Mexico. Its duties encompass:
  - Receiving and approving or disapproving applications for initial charters and renewals.

- Suspending or revoking charters in accordance with the provisions of the Charter Schools Act.
- Overseeing and directing the activities of the Charter Schools Division, with regard to its responsibilities for state-chartered charter schools.

The PED would need to review and likely substantially amend its policies related to charter school governance and operations. PED would need to review and amend [6.2.9 NMAC, Public Education Commission State Charter School Procedures](#). It should be noted, here, that PEC has previously indicated it has the authority to promulgate rule, however, neither the original bill nor its House Floor Amendment provide such authority to PEC.

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

Relates to:

- House Joint Resolution 4, State Board of Education, CA, which would propose an amendment to the Constitution of New Mexico to replace the currently serving PEC with a new State Board of Education (SBE) with authority over public school policy, career technical education policy, financial management, and oversight of public schools. The SBE would hire a state Superintendent of Public Instruction in place of the Secretary of Public Education.
- House Joint Resolution 13, State Board of Education, CA which would propose an amendment to the Constitution of New Mexico to continue the PEC as the chartering authority for state-chartered charter schools and create a separate SBE that determines school policy and has control, management and direction for public schools and that appoints a Superintendent of Public Instruction to carry out the policies of the board in place of the Secretary of Public Education.
- Senate Bill 245, Charter Schools as Boards of Finance, which proposes to require locally chartered charter schools to qualify as their own boards of finance.
- Senate Joint Resolution 3, State Education Board, CA, which would propose an amendment to the Constitution of New Mexico to make the current PEC the SBE and to replace the Secretary of Public Education with a Superintendent of Public Instruction supervising public schools.
- Senate Joint Resolution 15, which would create the State Board of Education (SBE) and delineate the roles of the SBE, a Superintendent of Public Instruction, the Public Education Department (PED) and the Public Education Commission (PEC) for the control, management, direction, and administration of public schools.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

The PED Charter Schools Division is known currently as the [Options for Parents and Families Division](#), and includes oversight of home schools, in addition to charter schools. It is unclear who would fulfill responsibilities related to home schools and locally-chartered charter schools should the Charter Schools Division be removed from the PED.

## **ALTERNATIVES**

The bill, as noted, leaves PED with none of its current roster of charter school experts, as it transfers the entirety of the CSD, including personnel, monies, and assets to the SCSO. The sponsor may consider addressing this issue by either creating a new staff office for PEC, while leaving some staff and resources to the department for its continued oversight and support of charter schools.

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

None.

## **AMENDMENTS**

The sponsor may wish to consider amending the bill to provide PEC with some mechanism by which it may prepare and submit its own annual budget for the legislature's approval.