

LFC Requester:	Rachel Gudgel
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**AGENCY BILL ANALYSIS
2015 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: Date January 16, 2015
Original **Amendment** **Bill No:** SB 47
Correction **Substitute**

Sponsor: Senator Craig Brandt **Agency Code:** Attorney General's Office
Short Prohibit Certain **Person Writing** Jennifer Salazar, AAG
Title: Ed Fees **Phone:** 827-6990 **Email** jsalazar@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None
Duplicates/Relates to Appropriation in the General Appropriation Act: NA

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis: SB 47 would add additional material to the Public School Code (Chapter 22, NMSA 1978). Subsection A would prohibit a school, local school board, or charter school governing body (collectively “school entities”) from charging students fees for certain activities and supplies. For example, the proposal would prohibit school entities from charging students a fee for activities conducted during the school day as well as for materials and supplies necessary for activities that occur during the school day. Subsection B would authorize school entities to charge student fees for the following activities: (1) parking; (2) attendance at an event conducted before or after the school day or off school grounds; and (3) for activities/circumstances not expressly prohibited under Subsection A. Finally, Subsection 3 would require school entities to adopt any fee proposed under Subsection B in a public meeting. Subsection C also requires that school entities provide the public with thirty days’ notice prior to adoption of a fee.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

This amendment appears consistent with Article XII, Section 1 of the Constitution of the State of New Mexico which requires a “uniform system of free public schools sufficient for the education of, and open to, all children of school age in the state[.]” In construing this language, the New Mexico Supreme Court held that this constitutional provision mandates that all courses “sufficient for the education” of students be provided for free. Norton v. Bd. of Ed. of Sch. Dist. No. 16, Hobbs Mun. Sch., 1976-NMSC-045, ¶¶ 4-5, 89 N.M. 470, 553 P.2d 1277. In addition, the Supreme Court also held that it is unconstitutional to charge students fees for books and supplies because the Court considered these items an essential component of a free public school education. Id. Nevertheless, the Supreme Court also explained that a school *may* charge “reasonable fees” for elective courses which are not integral to a public school education. Id. 5.

As currently proposed, the language in Section B, which would allow for assessment of a fee for “anything not prohibited in Subsection A of this section,” may be too broad. Consistent with the Supreme Court’s ruling in Norton, any fees imposed under Subsection A should be limited to “reasonable fees” for elective courses or other activities that are not an essential component of a free public school education.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A