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FISCAL IMPACT REPORT



SPONSOR: Fuller DATE TYPED: 02/07/02 HB 319

SHORT TITLE: Parental Choice Act SB _____

ANALYST: Baca

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			\$4,985.8	Recurring	General Fund

(Parenthesis) Indicate Expenditure Decreases)

*Estimate based on impact of private school students only.

Relates to HB 27

SOURCES OF INFORMATION

State Department of Education (SDE)

SUMMARY

Synopsis of Bill

House Bill 319 creates the Parental Choice Act, authorizes the education of students at certain public and private schools and amends sections of the Public School Code. Provisions of the bill apply only to school districts in municipalities having a population of 400,000 or more based on the 2000 federal decennial census (Albuquerque) and call for a delayed repeal effective January 1, 2006.

Significant Issues

HB 319 establishes a certificate program for a qualifying parent or guardian to use to educate a child outside the child's school district or in an eligible private school. No more than 10% of the public school population in the municipality shall receive certificates. To be eligible to participate in the certificate program, a student's family must be at or below 185 percent of federal poverty guidelines.

Using the definitions in the bill, only one school district in the state qualifies: Albuquerque Public Schools (APS), a school district with 85,276 students enrolled during the 2002-2003 school year. SDE reports the municipality also has 10,458 students enrolled in private schools.

The bill requires that the value of the certificate note be equal to the amount of money that the student would generate through the State Equalization Guarantee (SEG) and, if applicable, through the public school transportation formula.

The State Board of Education (SBE) must establish guidelines for the implementation and operation of the program.

The SDE must establish and bear cost of implementing the program and work with school districts to publicize the program within existing SDE resources.

Local school districts will be required to issue the certificates to the parents of eligible students and redeem certificates presented by private schools or public schools located outside the district's attendance zone on a quarterly basis.

Private schools are not required to participate in the certificate program. Any private school wishing to participate must register with the superintendent of their respective school districts, must develop or have in place policies in place that do not discriminate on the basis of race, color, national origin or ancestry, and must develop policies that do not discriminate against certificate students.

Mandated testing is to be administered in grades 3 through 9 to students receiving a certificate. The school district is required to report test results to the SDE and to the parent or legal guardian of the participating student. Any cost associated with the testing program are to be borne by the school district.

According to SDE, the bill does not require that participating private schools be accredited by the SBE or any other accrediting agency nor is a participating school required to comply with rules promulgated by either the SBE or the local school board.

FISCAL IMPLICATIONS

The fiscal impact of the bill has been calculated by SDE using the final unit value of \$2,871.01 for the 2001-2002 school year. Applying the formula in the bill, SDE calculates that the average value of the voucher would be \$4,766.51. However, the bill stipulates that the certificate value may not exceed the cost of tuition imposed by the private school.

Using the \$4,766.51 voucher amount and assuming that the 10% of the students enrolled in APS and in private schools who are eligible to participate actually participate in the program, SDE estimates that:

1. APS would be adversely impacted by \$40,648.8, the amount generated by the 8,525 students eligible to participate, with this amount being redistributed to other public schools or to eligible private schools.

2. The 10% private school students presumed eligible for certificates, 1,046 students, would require an additional \$4,985.8 to prevent a decrease in unit value. If the appropriation is not increased to fund these additional students, the unit value would have to be reduced and all school districts would be adversely affected.
3. The bill mandates that the transportation allocation to which a student is entitled if he were to enroll in his attendance zone. This would also have an adverse effect on APS, but it is not possible at this time to estimate the potential impact on the district.
4. SDE points out that local school districts that accept the certificates as required by the Family Choice Act would most likely receive less money for each participant than for a student enrolled in the normal fashion because students bearing certificates would not generate units to be included in the generation of training and experience funds. It is unclear if these students could be used in the calculation of growth units for the receiving district.
5. APS would have to absorb the cost of testing all students participating in the certificate program.

ADMINISTRATIVE IMPLICATIONS

According to SDE, the administrative impact of the bill will be significant on both the SDE and APS. The SDE would have to implement the program and conduct a public awareness campaign within existing resources, thereby lessening its ability to meet agreed to performance standards.

The bill will require that the APS superintendent act upon each application for a certificate within a given time frame and, if the application is approved, issue a certificate. The district would also be required to make payments to all participating public and private schools on a quarterly basis.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

Section 22-1-4 NMSA 1978 currently provides for open enrollment. If maximum allowable class size is not met or exceeded by the enrollment of first priority students, the school is required to enroll other students in accordance with the established priorities. The bill requires school districts adopt standards for the acceptance and rejection of certificates based upon capacity. It is unclear, however, whether certificate students would be considered for enrollment based upon the priorities.

HB 27 proposes to enact the "Elementary and Secondary School Voucher Act" to establish a voucher program for qualifying parents or guardians to use at a public school outside of the child's resident school district or at an eligible private school. Beginning in the 2006-2007 school year, all students would be eligible to participate.

TECHNICAL ISSUES

In its analysis, SDE raises several issues, including the following:

"Private school" is not defined in the bill.

No guidance is given the school district in selecting the 10% eligible for certificates if the eligible applications exceed the number eligible to participate.

The bill does not address charter schools.

The bill does not specify whether the certificate is to be issued to the student, parent or legal guardian, or the private school in which the certificate student is enrolled.

The January 1, 2006, date for repeal of the program suggests that students would receive certificates for one semester only, but the testing but testing and reporting requirements along with other amendments to the Public School Code would remain in effect.

The bill does not address the payment of federal funds generated by some students. (Would students who generate impact aid as public school students still generate federal funds?)

The bill does not address how the training and experience factor in the formula is to addressed.

OTHER SUBSTANTIVE ISSUES

Among the substantive issues raised by the SDE is one citing an Attorney General's opinion stating that "a school voucher program involving the use of public money to provide parents of private school children with tuition assistance raises serious and substantial state constitutional questions, most significantly under Article XII, Section 3, which proscribes the use of public money for support of private schools, and the anti-donation clause of Article XI, Section 14."

Also of concern to the SDE is the absence of references to students with special needs and suggests this lack may negatively impact on a significant segment of the public school population.

LB/ar