

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SM 90

52nd Legislature, 2nd Session, 2016

Tracking Number: .203796.1

Short Title: Virtual Schools Study Group

Sponsor(s): Senator Sue Wilson Beffort

Analyst: Kevin Force

Date: February 13, 2016

Bill Summary:

Acknowledging that when the *Charter Schools Act* was originally enacted in 1999, the Legislature could not have known the extent to which technology would advance to the point where some charter schools operate in fully online settings, SM 90 requests the Legislative Education Study Committee (LESC) and the Legislative Finance Committee (LFC) to convene a work group to study issues of funding and quality control with virtual schools.

Fiscal Impact:

Legislative memorials do not carry appropriations. Any costs associated with the work group would be absorbed by the LESL and LFC operating budgets.

During the 2015 interim, the LESL/LFC Ad Hoc Work Group considered examining the state of virtual education in New Mexico, but decided to wait until the release of the LFC report on charter school funding and quality control¹, so that LESL might use the information contained in the report to better address the issue during the 2016 interim.

At a Glance:

- The memorial notes that many states have found virtual schools to be operable with 30 percent to 50 percent less funding than traditional brick-and-mortar schools.
- One of the two fully online schools operating in New Mexico utilized the enrollment growth factor of the public education funding formula to increase its per-student funding from \$5,692 in FY14 to \$ 11,039 in FY15.
- LESL and LFC are to convene a work group to study funding and quality control issues pertaining to virtual schools and make recommendations to the Legislature and the governor before the 2017 regular legislative session.

Substantive Issues:

According to a recent LFC report on performance, costs and governance of New Mexico charter schools:

¹ [Report #16-01 to the Legislative Finance Committee: Public Education Department, Performance, Cost, and Governance of Selected Charter Schools, January 18, 2016](#)

- charter schools serve approximately 7.0 percent of the student population, and make up 11 percent of all public schools, statewide;
- authorization of charter schools is independent of the state's budget process and does not consider the financial implications for the state;
- charter schools dilute state funds available to public schools through the use of size adjustment program units, enrollment growth program units, transportation funding, and the overall costs per student;
- there is little difference between student performance at charter schools and traditional schools;
- state funding and accountability fail to address the differences between virtual schools and traditional brick-and-mortar schools; and
- virtual charter schools have not operated with cost-effectiveness, when compared with their traditional peers.

The report recommended analyzing the impact of charter school enrollment on the state budget. Further, it suggests creating an advisory group to review virtual education and create statutory requirements for virtual school funding and student achievement.

Background:

During the 2015 interim, LESC heard testimony regarding the proliferation and nature of virtual education and cyber learning in the state, noting that further growth of this kind of public education is inevitable; however, New Mexico has left the issues of virtual charter school funding, oversight, governance, and accountability largely unaddressed.

The Center for Research on Education Outcomes (CREDO) conducted a study in 2015 comparing virtual school programs with their traditional brick-and-mortar peers. CREDO found typical academic gains in online charter schools for math were equivalent to 180 fewer school days than their traditional school counterparts, while gains for reading were equivalent to 72 fewer school days. Disaggregating these results for racial-ethnic subgroups indicated that all subgroups in online charter schools ranked below their peers for both reading and math from 58 days for African-American students to 86 days for Native American students; white and Hispanic students both lagged behind their traditional peers by 79 days.

Because money follows the student in the state equalization guarantee (SEG) distribution, and virtual charter schools have the ability to draw membership from school districts across the state, rapid growth of virtual charter schools could potentially jeopardize funding and solvency of school districts. Other issues identified by LESC include:

- the lack of some definitions, and vagueness in others within the *Public School Code* can make legal differentiation between traditional, blended, and fully virtual learning problematic;
- academic performance at virtual schools in math and writing are consistently lower than traditional brick-and-mortar schools;
- while some states limit virtual school funding to an amount below that received by brick-and-mortar schools, New Mexico does not, and state funding of virtual schools still compares favorably with other jurisdictions;
- wide variation in funding exists between New Mexico virtual charter schools, with the New Mexico Connections Academy generating \$11,039 per funded student in FY15 compared with only \$6,159 generated by the New Mexico Virtual Academy; and

- size adjustment program units incentivize prospective virtual schools in New Mexico to limit enrollment even though those units currently are not exploited by virtual charter schools.

Related Bills:

HB 209 *Minimum Equalization Guarantee Distribution*

SB 32 *Nat'l Board Certification to Teacher T&E*

SB 37 *Public School Funding Adequacy*

SB 141a *Public School Funding Formula Amendments*

SB 165 *School "Current Year MEM" Calculation*

SB 198 *School Transportation Distribution*