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FISCAL IMPACT REPORT

SPONSOR SJC ORIGINAL DATE 2/25/2019
LAST UPDATED _____ HB _____

SHORT TITLE Virtual Charter Schools SB 429/SJCS

ANALYST Eckberg

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

Related to House Bill 5 Public Education Changes
Conflicts with House Bill 434 Charter School Authorization Moratorium

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

No Response Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Judiciary Committee Substitute for Senate Bill 429 creates a new section of the Public School Code, the "Virtual Charter Schools Act". The bill requires the Public Education Commission (PEC) charter virtual charter schools enrolling students from more than one district, allows a school district charter a virtual charter school that only enrolls students within the district, limits the number of students new virtual charter schools may enroll until performance meets or exceeds performance targets, sets out additional requirements for applications and virtual charter contracts, and requires additional monitoring and oversight by the chartering authority.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. However, there are potential fiscal implications for virtual charter schools and PED. PED would be responsible for promulgating rules to carry out

the provisions of the bill and PEC responsible for monitoring and overseeing statewide virtual charter schools, which may require additional personnel and resources.

The bill also includes a calculation for computing the program costs of virtual charter schools which will affect the amount of funding virtual charter schools receive. LFC estimates the three existing virtual charter schools would have received less funding in FY18 had the provisions of this bill been in effect:

- Pecos Connections would have been allocated \$2,042,066 under this bill compared with the \$4,004,310 allocation they received, a difference of almost \$2 million.
- New Mexico Virtual Academy would have been allocated \$2,955,346 under this bill compared with the \$3,119,222 allocation they received, a difference of almost \$164 thousand.
- New Mexico Connections would have been allocated \$8,987,724 under this bill compared with the \$12,370,088 allocation they received, a difference of almost \$3.4 million.

SIGNIFICANT ISSUES

The bill makes several changes to existing and future virtual charter schools. The bill defines “virtual charter school” as a charter school that provides more than 60 percent of instruction to students through online distance learning technologies in which students are separated from their primary teachers by time, space, or both. A recent joint LFC and LESC program evaluation, *Virtual Charter Schools in New Mexico* recommended the Legislature define “virtual charter school” in statute.

The bill only allows PEC charter a new virtual charter school that enrolls students from more than one school district in the state, which the bill defines as “statewide”. Currently, district virtual charter schools can enroll students from outside their districts. Under provisions of the bill, a local school board may charter a virtual charter school only if the school enrolls students who are residents of the school district. Local school boards are prohibited from authorizing or renewing a statewide virtual charter school on or after July 1, 2019. Local school boards who have chartered virtual charter schools enrolling students outside of their districts are to continue providing oversight and administrative support for the statewide virtual charter school until the next charter renewal period at which time the virtual charter school should seek renewal from PEC unless the virtual school limits its enrollment only to students who are residents of the school district. The joint LFC and LESC program evaluation recommended the Legislature amend state law to allow only PEC to authorize virtual charter schools enrolling students outside their school districts.

Under provisions of the bill, a virtual charter school shall not be eligible for public school capital outlay, lease assistance or facility maintenance funding, or transportation funding. Currently, virtual charter schools are not receiving these funds because they do not have students occupying classroom space and do not transport their students. The joint LFC and LESC program evaluation also recommended the Legislature prohibit virtual charter schools from applying for capital outlay and transportation funding.

New virtual charter schools may only enroll students in grades 5th through 12th and may not enroll students in kindergarten through 4th grade. Existing virtual charter schools seeking renewal after July 1, 2019 shall not be authorized to operate as a public school for students in

kindergarten through 4th grade. Students enrolled in those grades in the immediately preceding year prior to renewal may continue in those grades, but the virtual charter school may not enroll new students in those grades. Currently, there is at least one virtual charter school enrolling kindergarten through 4th grade students.

The bill also limits how many students new virtual charter schools may enroll. New virtual charter schools may enroll no more than 200 students per year until the school has demonstrated performance meets or exceeds performance targets. A statewide school cannot enroll more than 1,000 students unless certain conditions are satisfied. The bill also limits the term of a virtual charter school to three years, or four years for new school with the first year designated for planning without students. A virtual charter school may be renewed for successive periods of here years each, however approvals of less than three years may be agreed upon. The joint LFC and LESC program evaluation recommended the Legislature limit the initial charter term for virtual charter schools or placing enrollment caps on virtual charter schools.

The bill limits the ability of new virtual charter schools to accept full-time students from a necessarily small school districts (a school district with fewer than 1,300) under some instances and enrolling students who need class C or D special education services unless certain conditions are met.

The bill requires contracts include a detailed description of the chartering authority's duty, including the processes and procedures the chartering authority will use for ongoing oversight and evaluation of governance, operational and financial performance, and the academic performance and progress of students. The joint LFC and LESC program evaluation recommended virtual charter school contracts contain details to provide transparency and to allow increased oversight by charter school authorities.

The bill explicitly states virtual charter schools are subject to the procurement code, and notwithstanding the Procurement Code, shall not enter into a sole source contract. The LFC and LESC joint program evaluation found some virtual charter schools were signing contracts over \$60 thousand without chief procurement officers and awarding large sole source contracts, subverting procurement statutes.

The bill would prohibit PED waive statutory instructional time required of public schools and virtual charter school students must meet the required number of instructional hours during the school year.

The chartering authority shall visit the virtual charter school under its authority at least twice a year to provide technical assistance and determine the status of the school and progress toward performance goals. The chartering authority must notify PED at the end of each school year if the virtual charter school failed to meet its annual performance targets. If the chartering authority suspends, revokes, or refuses to renew a virtual charter school's charter, the decision is final and may not be appealed to PED secretary, but may be appealed to the district court as provided by current law.

The bill adds a new section for purposes of computing the program cost of virtual charter schools. The program cost should be calculated by multiplying the basic education program units by the staffing cost multiplier and adding special education program units if generated, and national board for professional teaching standards certification units, only if the certified teacher is a resident of New Mexico and licensed by PED.

Additionally, if a virtual charter school does not meet its performance targets, the school will lose 10 percent of its program cost for subsequent school years until the school meets those targets. A chartering authority shall not renew the charter of a virtual charter school that has had its program cost withheld for two or more consecutive years. The joint LFC and LESC program evaluation recommended the Legislature develop an alternative funding mechanism for virtual charter schools due to lower staffing and plant operations and maintenance costs compared to brick-and-mortar schools.

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