

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 302aa

51st Legislature, 1st Session, 2013

Tracking Number: .191273.2

Short Title: Home & Charter School Student Program Units

Sponsor(s): Senator Craig Brandt and Others

Analyst: Mark Murphy

Date: March 5, 2013

AS AMENDED

The Senate Finance Committee amendment adds that this act applies to school year 2014-2015 and subsequent school years.

The Senate Education Committee amendments:

- **remove charter school students from the provisions of this bill, making the funding formula change only to districts providing courses for home-schooled students;**
- **replace the term “traditional public school” with “public school”; and**
- **specify that the 0.25 cost differential factor is provided per class per student up to the enrollment required for the student to meet the definition of a “qualified student.”**

Original Bill Summary:

SB 302 adds a new section to the *Public School Finance Act* to:

- allow home-school and charter school students to take one or more classes at traditional public schools; and
- provide for the calculation of additional program units.

Among its provisions, the bill:

- specifies that the program units are to be calculated by:
 - multiplying the number of enrolled home schooled or charter school students by a 0.25 cost differential factor;
- requires that the program units be paid to the school district that operates the school that the eligible students are attending;
- allows these students to enroll in:
 - a public school in the attendance zone in which the student resides; or
 - another public school outside the attendance zone as provided in *Public School Code* provisions relating to a free public school education and to student enrollment; and

- requires a district to verify the academic and other eligibility of each enrolled home school and charter school student.

Fiscal Impact:

SB 302 does not contain an appropriation.

Fiscal Issues:

According to the Public Education Department (PED) bill analysis:

- while the department collects home school student data, it is unclear how many students would elect to take classes in traditional public school courses; and
- since charter school students are currently funded through the State Equalization Guarantee (SEG) distribution (commonly referred to as the Public School Funding Formula), those students electing to take classes in a traditional public school would be double funded.

The PED bill analysis also cites concern that:

- changes to the Public School Funding Formula will require at least a year to modify databases, collect the required data and calculate program cost for each school district and charter school; and
- not having a year to develop the system to calculate and evaluate these components could have a potentially negative impact on the calculation of the unit value.

Substantive Issues:

Home School Student

Among its definitions, the *Public School Code* defines a:

- “home school” as the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies, and science; and
- “qualified student” as a public school student who:
 - has not graduated from high school;
 - is regularly enrolled in one-half or more of the minimum requirements approved by PED for public school students; and
 - in terms of age:
 - ✓ is at least five years of age prior to 12:01 am on September 1 of the school year;
 - ✓ is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of PED; or
 - ✓ has not reached the student’s 22nd birthday on the first day of school and is receiving special education services pursuant to rules of PED.

Based on these definitions:

- it appears that for funding purposes, a home school student is not considered a public school student unless the home school student “is regularly enrolled in one-half or more of the minimum requirements approved by PED for public school students”;
- however, provisions relating to a free public school education and student enrollments require that a free public school education “be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent”; and
- as a result, it appears that a district would have to provide educational services for a home school student.

Charter School Student

As defined in the *Public School Code*, a

- “public school” is that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high, or high school or any combination of those, **including charter schools**.

Based on this definition, a charter school student is a public school student for funding purposes. As such, a charter school student funded under the provisions of this bill would be double funded as noted in the PED bill analysis.

Student Enrollment Provisions

With regard to enrollment, provisions in current law provide priorities for enrollment of students in a public school, including “other applicants” as long as the maximum allowable class size established by law or local school board rule, whichever is lower, is not met or exceeded. Other provisions require a public school:

- to establish a waiting list if the maximum class size is exceeded; and
- as classroom space becomes available, to notify the persons highest on the waiting list with the highest priority to give them the opportunity to enroll.

According to the New Mexico School Boards Association (NMSBA), in cooperation with the New Mexico Superintendents Association, school districts were recently asked if home school students were allowed to take courses in their schools. The results, according to NMSBA, indicate that out of 47 district responses, 24 districts currently provide courses to home school students, if classroom space is available.

Technical Issues:

SB 302 does not contain an effective date. Pursuant to Article IV, Section 23, of the state constitution, the provisions of the bill, if enacted, will become effective 90 days after the adjournment of the 51st Legislature, 1st Session (June 14, 2013).

Because of the concerns in the PED bill analysis, the sponsor may wish to consider an effective date of July 1, 2014.

Background:

In 2007, the *Public School Finance Act* was amended to include a home school student activities factor of 0.1 in the SEG distribution to compensate school districts for any costs associated with allowing home school students to participate in one New Mexico Activities Association (NMAA)-governed athletic activity.

In 2009, the statute was amended to allow home school students to participate in up to three NMAA-governed athletic events.

Committee Referrals:

SEC/SFC/HEC/HAFC

Related Bills:

SB 164 *Equalization Guarantee at School for the Arts*

SB 325 *Stop Some Indian Impact Aid Credits*

SB 378 *K-3 Plus Equalization Guarantee Distribution*

SB 379 *Vocational Education Funding Differential*

*SB 433 *Public School Physical Education & Funding*

CS/HB 158 *School Performance-Based Budgeting*

HB 165A *School Finance Units for Small Districts*

HB 192 *School Program Units for Certain Personnel (Identical)*