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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB454</u>	Sponsor	<u>Roch</u>
Tracking Number	<u>.205530.3</u>	Committee Referrals	<u>HEC/HAFC</u>
Short Title	<u>Chartering of Virtual Charter Schools</u>		
Analyst	<u>Herz</u>	Original Date	<u>2/28/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 454 (HB454) amends the Public School Code to provide definitions of and regulations for virtual charter schools, including automatic closure for virtual charter schools that fail to produce student academic growth. The bill limits virtual charter schools to 75 percent of total program units calculated in the Public School Finance Act and excludes virtual charter schools from fine arts education and elementary physical education program units. HB454 excludes virtual charter schools from the state transportation distribution and limits capital outlay eligibility. The bill requires that kindergarten through fifth grade students enrolled in a virtual charter school receive only synchronous instruction, while those enrolled in grades 6 through 12 shall receive either synchronous or a combination of synchronous and asynchronous instruction. HB454 requires that all virtual charter schools that enroll students from outside of the school district where the school is located apply to be chartered as a state-chartered charter school. New state-chartered virtual charter schools must notify all school districts in the state when applying for their initial charter.

FISCAL IMPACT

HB454 does not appropriate funds. However, applying the provisions of the bill to FY17 data, state equalization guarantee (SEG) funding for virtual charter schools would decrease by about \$3.4 million; the SEG funding for each school district and non-virtual charter school would increase by just over 0.1 percent. The changes in SEG funding would vary from year to year depending on the number of virtual charter schools and how many program units each virtual charter school produced.

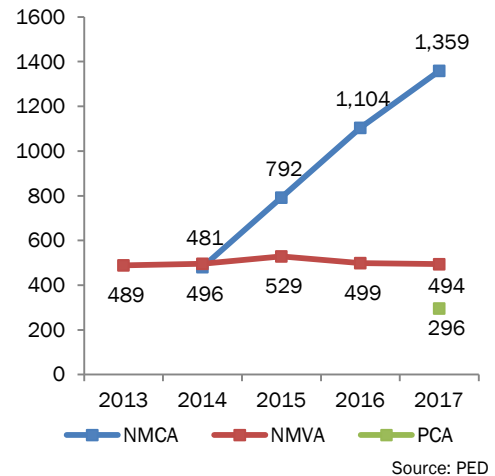
SUBSTANTIVE ISSUES

The number of virtual charter schools across the country has grown significantly since the late 1990s. By using technology to deliver education, online charter schools allow students to earn credits remotely, which could serve students with disabilities, students who are homeschooled, or

students in rural areas more effectively than traditional brick-and-mortar schools. New Mexico is one of 35 states and Washington DC to allow full-time virtual charter schools. Currently, three virtual charter schools exist in New Mexico:

- New Mexico Virtual Academy (NMVA), a locally chartered virtual charter school in Farmington that opened in the 2012-2013 school year and serves students in grade 6 through 12. In December 2016, the Farmington Municipal Schools Board of Education voted to close NMVA due to the school’s performance and fiscal practices. In February 2017, the two parties reached an agreement that allowed NMVA to remain open for two additional years, pending numerous conditions (see Attachment A);
- New Mexico Connections Academy (NMCA), a state-chartered virtual charter school in Santa Fe that opened in the 2013-2014 school year and serves students in grades four through twelve; and
- Pecos Connections Academy (PCA), a locally chartered virtual charter school in Carlsbad opened in the 2016-2017 school year that serves students in kindergarten through grade 5.

Figure 1. New Mexico Virtual Charter School Enrollment



New Mexico’s statutes are currently silent on virtual charter schools. HB454 defines terms relevant to virtual charter schools, including:

- virtual charter school,
- statewide virtual charter school,
- local virtual charter school,
- synchronous instruction,
- asynchronous instruction, and
- internet-based method.

Additionally, the bill amends the definition of “school” to account for virtual schools.

Fiscal issues. New Mexico’s funding formula codified in the Public School Finance Act was written well before virtual schools existed. In many ways, virtual charter schools are unlike traditional brick-and-mortar schools. They have larger class sizes, enroll students from multiple school districts and, as a result, spend money differently. Because of this, issues have arisen in the application of the funding formula to virtual schools.

While most agree that the cost of virtual schooling is less than that of traditional schools (due to lower costs for facilities maintenance and student transportation, for example), there is little research to indicate the exact cost difference between the two. The National Center for Education Statistics (NCES) indicates virtual schools may spend as much as 25 percent less than traditional schools. According to a recent Legislative Finance Committee (LFC) report, however, virtual school costs are not significantly lower than those of traditional schools, even considering such factors as facility maintenance costs, suggesting that virtual schools in

New Mexico have not demonstrated cost-effectiveness when compared with their traditional counterparts.

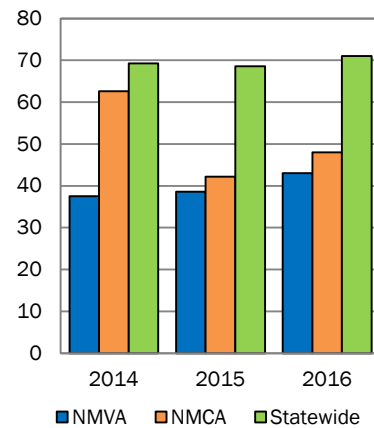
In addition to cost-effectiveness concerns, questions remain about how virtual charter schools are actually spending formula funding. While brick-and-mortar schools spend a majority of their budget on teacher compensation and support services for students, virtual charter schools tend to spend more on line items like “software” or “other contract services.” A provision in NMCA’s contract with its content provider, Connections Education LLC, requires that the school pay the company \$2,000 per student enrolled at the school. There is some concern that New Mexico taxpayer dollars are being used to fund out-of-state companies, and potentially that the money is funding students or other virtual schools outside of New Mexico.

Virtual charter schools also enroll many students from outside of the district where they are physically located (see Attachment B). In New Mexico, funding generally follows the student, meaning that if a student transfers from a traditional public school to a charter school, that charter will receive the SEG funding for that student, drawing the money away from the local school district. Despite this, New Mexico law does not currently require notice from virtual schools to be provided to all school districts. The loss of predictability for other school districts may be particularly difficult for rural districts, many of which already are experiencing enrollment declines and have fewer resources than more heavily populated school districts.

Student outcomes. The majority of research on student academic outcomes indicates that virtual charter school students progress slower than their peers at brick-and-mortar schools, even after accounting for differences in demographics. These results are even more pronounced among at-risk populations. Concerns about student outcomes from virtual charter school students are shared by education researchers and policymakers across the country.

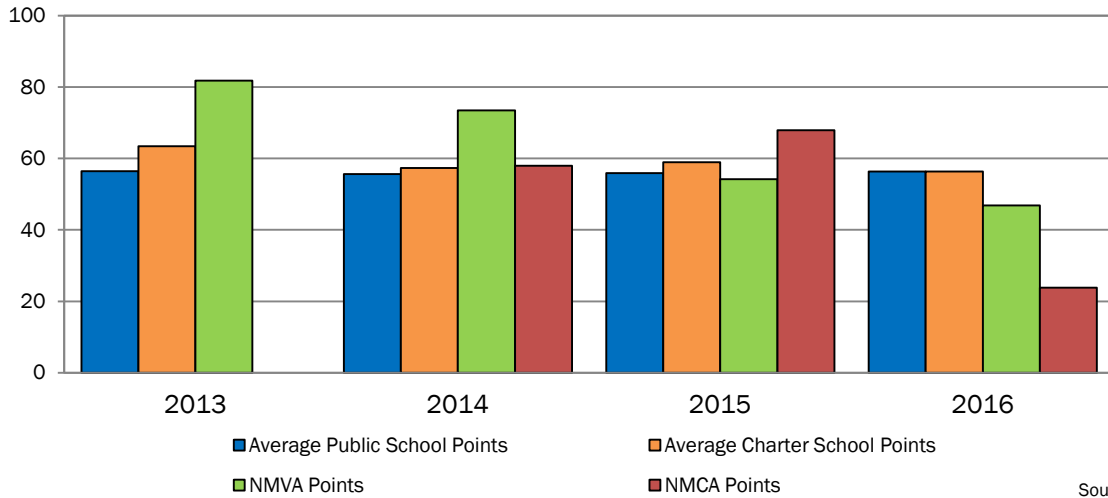
Virtual charter schools in New Mexico fare similarly to those across the nation with respect to student academic performance. Each virtual charter school has seen declines in their school grades since opening, and graduation rates, academic growth, and overall student proficiency at these schools have consistently lagged behind state averages. As seen in Attachment C, academic growth rates at virtual charter schools have declined each year since the 2013-2014 school year. NMCA’s 2015-2016 academic growth rate was worse than 96 percent of all schools in New Mexico.

Figure 2. Graduation Rates
NMVA, NMCA, and Statewide



Source: PED

Figure 3. School Grade Point Totals Statewide versus Virtual Charter Schools



ADMINISTRATIVE IMPLICATIONS

HB454 would require the Public Education Department to reduce program units for virtual charter school by 25 percent before calculating the SEG distributions for school districts and charter schools.

SOURCES OF INFORMATION

- LESC Files

MPH/rab



Farmington Municipal Schools
2001 North Dustin Avenue – P.O. Box 5850
Farmington, New Mexico 87401

ADMINISTRATIVE OFFICES

TELEPHONE (505) 324-9840
 FAX (505) 599-8806

February 10, 2017

Re: NMVA two-year charter renewal

Dear Mr. Lee:

The Farmington Municipal School Board approved a two-year renewal of New Mexico Virtual Academy's charter at its February 9, 2017 meeting. The two-year charter renewal was approved with the following conditions:

- 2 year charter renewal (2017-18 and 2018-19)
- NMVA agrees not to apply for renewal with FMS upon expiration, but rather to apply for a State charter or a charter from another authorizer. NMVA agrees that it will not be renewed as an FMS chartered charter school after the expiration of this two-year renewal term.
- For 2016-2017SY, NMVA must have a three-year average school grade of C or better. If, after all appeals to NMPED related to the school grade have been exhausted and NMVA's grade is not a C or better, the charter will be revoked and NMVA will close at the end of the school year.
- For 2017-2018SY, NMVA must have a three-year average school grade of C or better. If, after all appeals to NMPED related to the school grade have been exhausted and NMVA's grade is not a C or better, the charter will be revoked and NMVA will close at the end of the school year.
- Student enrollment not to exceed 500 students at any time. Student enrollment that at any time exceeds 500 will violate this condition. The district will provide 7 business days for the School to respond to any cap overages or discrepancies.
- NMVA to comply with limits for student/teacher/class ratios that are negotiated during charter contract negotiations.
- NMVA to become accredited by AdvancED Accreditation by June 30, 2018.
- Head Administrator to enroll in and complete Principals Pursuing Excellence Program in Cohort 5 through the Priority School's Bureau of PED.
- NMVA will give in person and written formal annual report to FMS board in the summer of 2017 and 2018, and other times, if reasonably requested.
- Two site visits by FMS each year; one each semester, with process and requirements around site visits as described in the Charter School Act and the to-be-negotiated charter contract.

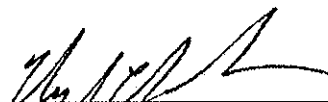
- By June 1, 2017, create an acceptable Strategic Plan that addresses, without limitation, student performance, graduation rates, plan for working with credit recovery students, with parameters to be negotiated, and present the Strategic Plan to the FMS Board at its July 2017 meeting.
- Provide 90-day plan on or before August 15, 2017.
- NMVA to serve only grades 6-12 and to provide, within 60 days of charter renewal and annually thereafter, a document outlining the current number of students by grade level and number of seats in each grade level still available.
- NMVA to provide, within 60 days of charter renewal and annually thereafter, its current policies and procedures and plans with regard to ELL, Special Education, and Native American students.
- SMART goals for student performance to be negotiated and included in charter contract.
- NMVA to provide, within 60 days of charter renewal and annually thereafter, a document stating when students will be required to attend the learning center, and updates as they are made.
- NMVA to provide, within 60 days of charter renewal and annually thereafter, its testing plan and procedures, its testing calendar, and testing locations, with annual updates.
- NMVA to provide, within 60 days of charter renewal and upon reasonable request thereafter, enrollment figures showing numbers of students by grade and county of residence.
- NMVA will provide written Quarterly reports to FMS which include:
 - Monthly enrollment data (showing enrollment capped at 500);
 - Monthly student/teacher/class ratios
 - Information/results on short cycle assessments in ELA and math and other student proficiency data to the extent available.
 - Explanation/Discussion of PED school report card after receipt of the scores.
 - Progress on development of Strategic Plan.
 - Withdrawal and graduations rates with methodology explained
 - Corrective actions on audit findings, to the extent available.
 - Monthly financial data including amounts spent on K12, Inc. contract.
 - Complaints received and resolution thereof, as more fully spelled out in the charter contract,
 - Other information reasonably requested by FMS as soon as feasible but not to exceed 10 days of a request.

- If ultimate determination by other government agencies, with authority to make such a determination (after appeals), of financial malfeasance or illegal activity, charter is revoked.
- Will provide Governing Council meeting notices to FMS when agenda published
- NMVA will have a Chief Procurement Officer no later than March 31, 2017. If NMVA cannot get an employee certified as a Chief Procurement Officer by that date, NMVA will contract for a Chief Procurement Officer, if legally permissible.
- FMS have right to request/audit information (outside of formal, state-required audit), as spelled out in greater detail in the charter contract.
- FMS performs other statutory oversight activities and others to be subject of contract negotiations
- Formal contract with other terms to be negotiated.

The conditions set forth above are required by the Farmington Municipal Schools in order to remedy problems set forth in the December 28, 2016 letter, which outlined the reasons for non-renewal of the charter. The intent of these conditions is that NMVA be allowed the opportunity to succeed as a charter school, while also recognizing the sense of urgency in turning around its problems, particularly those related to student achievement.

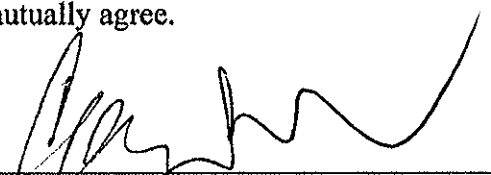
If you do not agree with these conditions, and wish to appeal, you must provide the Secretary of Education with a notice of appeal within thirty days of receipt of this letter. The notice must include a brief statement of the reasons the governing body contends that the chartering authority's decision was in error. Please refer to the provisions in law related to appeal, including those set forth in the Charter School Act, NMSA 22-8B-1, *et seq.* and NMAC 6.80.4.13.

If you do agree with these conditions, and wish to renew the charter pursuant to these conditions, please notify us as soon as possible of the Governing Council's decision and, together, we will set out immediately to negotiate a charter contract, as required by the Charter School Act, within 30 days of notice of the acceptance of the conditions or such later time as we mutually agree.



 Kyle Rhodes, President
 Board of Education
 Farmington Municipal Schools

Approved: February 9, 2017



 Cory Lee, President
 Governing Council
 New Mexico Virtual Academy

Approved: 2/10/2017

ATTACHMENT B

FY16 Distribution of Virtual Charter School Students by County of Residence

<i>County</i>	<i>NMCA</i>	<i>NMVA</i>	<i>Total</i>	<i>Percent of Overall Virtual Charter School Students</i>
Bernalillo	332	121	453	24.3%
Sandoval	108	36	144	7.7%
San Juan	46	72	118	6.3%
Santa Fe	72	30	102	5.5%
Doña Ana	59	34	93	5.0%
Valencia	63	25	88	4.7%
Lea	38	22	60	3.2%
Chaves	32	27	59	3.2%
Otero	47	9	56	3.0%
Eddy	44	9	53	2.8%
23 other counties	220	115	335	21.5%
Total	1,061	500	1,561	100.0%

Source: LFC

Percent of Growth Points Scored by Virtual Charter Schools

