

## EXPAND CYBER SCHOOLS

### Senate Bill 619 (Substitute H-3)

**Sponsor: Sen. Patrick Colbeck**

**House Committee: Education**

**Senate Committee: Education**

### First Analysis (2-20-12)

**BRIEF SUMMARY:** The bill would:

- Eliminate the limit of two on the number of contracts that may be issued for schools of excellence that are cyber schools, and increase the total to 15 until December 31, 2013, then to 30 cyber schools thereafter.
- Delete the requirement that cyber students previously be enrolled in public school.
- Allow cyber schools to offer any grade configuration.
- Require a cyber school to demonstrate experience delivering a quality education program that improves student academic achievement.
- Delete the 400-student enrollment limit, and the maximum 1,000-student limit if the school enrolled drop-outs.
- Instead set a new enrollment cap set at half the number of students in the Detroit Public Schools (which has an enrollment currently estimated at 68,000 students).
- Delete the cyber school contract sunset of January 1, 2015.
- Allow a cyber school to sell any of its course offerings to other public schools.

**FISCAL IMPACT:** By eliminating or lessening a number of restrictions on cyber schools, including expanding the cap on the number of cyber schools and enrollment in cyber schools, the bill would likely result in an increase in State School Aid Fund expenditures as the number of cyber charter schools proliferates and the enrollment in cyber schools rises.

### **THE APPARENT PROBLEM:**

Over the past decade in the United States, online learning has grown exponentially in K-12 education, often in the context of charter schools, and in an effort to provide curricular options to home-schooled students. It is estimated that as early as 2005, nearly one in every 50 students in the U.S. supplemented their formal schooling with online courses.

Online learning (sometimes called virtual schooling, cyber-schooling, or 21st century schoolhouses built in the cloud) can be classified in two categories: (1) as supplemental schooling (for example, including credit recovery), or (2) as fulltime cyber schools. The students who schedule an online course to supplement their schools' course offerings, such as advanced mathematics or foreign language, or to make-up uncompleted or failed work required for graduation, because of illness, family travel, or slacking off, account

for about twice the number of students as those enrolled full-time in a virtual cyber school.

When coursework taken at school with a teacher and fellow students in a classroom is combined with online coursework where a teacher or instructional coach works with a far flung group of students, the result is called "blended learning." Michigan public school districts offer on-line blended learning for thousands of students, because on-line courses are required to meet high school graduation requirements. One of the state's first and largest blended programs is GenNET in Genesee County; other programs represented at House committee meetings included Northville Central Public Schools in Kent County, Manistee Public Schools in Manistee County, and Bangor Public Schools in Van Buren County. See *Background Information* below.

In contrast, full-time cyber schools exist in 27 states today, frequently taking the form of online charter schools. Different from established public schools offering online supplemental programs, the cyber school market in the U.S. is dominated by six large companies, accounting for much of the content and many of the services sold to full-time virtual schools. According to the National Education Policy Center, those companies are K12, Inc. (which started as a provider of courses for home-school students); Educational Options, Inc. (which started as a provider of courses for credit recovery); Apex Learning (originally an online course provider for Advanced Placement courses); PLATO; A+LS (originally a provider of courses for accelerated learning and credit recovery); and Connections Education.

At least one of the companies, the largest called K12, Inc., which is publicly traded on the New York Stock Exchange, offers an array of programs in different states (e.g. COVA in Colorado, TVA in Tennessee, Agora in Pennsylvania, Ohio etc.). According to recent news articles, the second largest, Connections Education, offered its program to the Virginia legislators who appropriate public funds at three price points: Option A at \$7,500 per pupil having a student-teacher ratio of between 35 and 40 teachers to 1 student, and an average teacher salary of \$45,000; Option B at \$6,500 per pupil, having a student-teacher ratio of 50 to 1, with less experienced teachers paid \$40,000; and Option C at \$4,800 per pupil, and a student teacher ratio of 60 to 1, as well as a narrower curriculum.

According to the National Education Policy Center, little or no research is yet available on the outcomes of full-time virtual schools. In contrast, partial or blended approaches to virtual education, having existed longer, have been studied fairly extensively, and generally demonstrate student achievement results equal to those earned by students working to learn in more traditional classrooms.

In 2009 the Michigan legislature authorized the creation of a new kind of charter school called a "school of excellence." The new category of charter school was intended to attract 10 high quality charter school operators to the state who had demonstrated an ability to educate at-risk and urban high school aged students. The contracts to operate the schools (which could be issued through 2014 when the law sunsets) had to be approved by the state school superintendent, and be modeled after high-performing schools or programs elsewhere in the state or nation. The first five contracts were to be

issued for high school grades, and no school of excellence could be located in a school district that has a graduation rate of over 75 percent.

Under the law, two of the 10 contracts for schools of excellence could be cyber schools. The law specified that those two cyber schools had to meet five conditions: be available for enrollment to all students in Michigan; offer all of grades K to 12; have experience in serving urban and at-risk student populations through an educational model involving a significant cyber component; have an initial enrollment of up to 400 students; and, increase their enrollment, not to exceed 1,000 students in each school, by adding one pupil for each student the cyber school enrolled who had earlier dropped out of school. The law also allowed existing charter schools to convert to schools of excellence if they met high performance criteria.

Beginning in the 2010-2011 school year, two cyber schools were approved to begin operations in Michigan: Connections Academy, located in Okemos and authorized by Ferris State University; and Michigan Virtual Charter Academy, based in Grand Rapids and authorized by Grand Valley State University. During that first year of operation, the two cyber schools drew students from 228 school districts and charter schools. According to committee testimony, Michigan Connections has a significant waiting list, because 3,800 students applied for admission in its first year of operation. The second cyber school, Michigan Virtual Charter Academy, also has a waiting list, having enrolled 860 students, including 207 in the high school grades. In its first year of operation, 67 percent of its third graders at Michigan Virtual Charter Academy met the state's reading requirement as measured by the MEAP, however only 9.1 percent of its high school students were proficient on the Michigan Merit Exam. (*The Grand Rapids Press*, 1-25-12)

Legislation has been introduced to lift the cap on cyber school enrollment.

### ***THE CONTENT OF THE BILL:***

To expand the current provisions of the law governing cyber schools, Senate Bill 619 (H-3) would amend the Revised School Code (MCL 380.552) to do the following:

- Delete the limit of two on the number of contracts that may be issued for schools of excellence that are cyber schools, and increase the total to 15 until December 31, 2013, then to 30 cyber schools thereafter.
- Delete the requirement that cyber school students previously be enrolled in public school.
- Allow a cyber school to offer *any configuration of grades K through 12* or all of those grades, rather than requiring a cyber school to offer *all* of grades K through 12.
- Require that an applicant for a cyber school contract demonstrate experience delivering a quality education program that improves student academic achievement. (Currently a cyber school that is a school of excellence is required to demonstrate experience in serving urban and at-risk student populations through an educational model involving a significant cyber component).

- Delete the provisions that (1) limit enrollment in a cyber school to 400 pupils in the first year; (2) allow a cyber school subsequently to add one pupil for each enrolled student who is identified as a dropout; and (3) limit maximum enrollment to 1,000 pupils.
- Instead, set a new cap that limits enrollment in a cyber school to no more than half the number of students in the "school district with the greatest final audited membership" for the 2011-2012 fiscal year. (That district would be the Detroit Public Schools with an estimated 68,000 students).
- Delete a prohibition against issuing a cyber school contract after January 1, 2015.
- Specify that a school of excellence that is a cyber school can sell any of its course offerings to other public schools.

The H-3 substitute for House Bill 619 removes the tie-bar to Senate Bills 618, 620, and 621. [Note: Senate Bill 618 would make changes in the Revised School Code concerning the formation, operation, and termination of public school academies, urban high school academies, and schools of excellence, and would allow school districts to contract with other entities for the provision of teachers. Senate Bill 620 would amend the Revised School Code to provide for the organization and administration of "conversion schools." Senate Bill 621 would make changes in the State School Aid Act concerning the provision of state aid to public schools for the instruction of nonpublic students by public schools at private school sites.]

Now state law requires that an entity applying to be a cyber school of excellence demonstrate experience in serving urban and at-risk student populations through an educational model involving a significant cyber component. The Senate-passed version of the bill eliminated this provision and its focus on urban and at-risk student populations, and would require, instead, that the entity applying to be a cyber school of excellence "demonstrate experience in delivering a quality education program that improves pupil academic achievement." The H-3 version of House Bill 619 retains these changes, and also specifies that when determining whether this requirement is met, an authorizing body must refer to the Standards for Quality Online Learning that have been established by the National Association of Charter School Authorizers, or other similar nationally recognized standards for quality online learning.

Originally, the cyber school of excellence provisions in the Revised School Code specified eight purposes for which the authorizing body could use its fees. Those restrictions were eliminated with the enactment of Public Act 277 of 2011. Consequently, Senate Bill 619 (H-3) specifies only that the authorizing body shall not charge a fee that exceeds a combined total of 3% of the total state school aid, and that an authorizing body may also provide other services for a school, for which the authorizer may charge a fee.

***HOUSE COMMITTEE ACTION:***

The members of the House Education Committee made six changes to the Senate-passed version of Senate Bill 619, as follows.

First, Senate Bill 619 (H-3) removes the tie-bar to Senate Bills 618, 620, and 621. These bills which lift the cap on charter schools and allow school districts to contract with other entities to provide teachers (Senate Bill 618); provide for the organization and administration of "conversion schools" (Senate Bill 620); and make changes in the State School Aid Act to provide state aid for the instruction of nonpublic students by public schools (Senate Bill 621).

Second, Senate Bill 619 (H-3) specifies that cyber schools must meet the quality online learning standards established by the National Association of Charter School Authorizers or other similar nationally recognized standards for quality online learning.

Third, Senate Bill 619 (H-3) sets a limit on the total number of cyber schools at 15 until January 1, 2014, and extends that limit to 30 cyber schools thereafter.

Fourth, Senate Bill 619 (H-3) sets an enrollment limit for each cyber school at half of the Detroit Public School's total enrollment this year (which is estimated to be 68,000 students, resulting in an enrollment limit of about 34,000 students per cyber school).

Fifth, Senate Bill 619 (H-3), as a conflict substitute bill not considered by the Senate, alters the limits on the use of fees charged by charter school authorizers, to reflect changes made in Public Act 277 of 2011. These changes limited the restrictions on fee use by authorizers.

Sixth, Senate Bill 619 (H-3) specifies that a local school district, an intermediate school, or two or more public agencies acting jointly may not act as the authorizing body for more than one cyber school.

### ***FISCAL INFORMATION:***

By eliminating or lessening a number of restrictions on cyber schools, including expanding the cap on the number of cyber schools and enrollment in cyber schools, the bill would likely result in an increase in State School Aid Fund expenditures as the number of cyber charter schools proliferates and the enrollment in cyber schools rises.

Raising the cap on the number of cyber schools would tend to increase expenditures in the State School Aid budget. In determining pupil membership counts, the State School Aid Act provides for an alternative blend for new public school academies (PSAs) – including cyber schools – during their first two years of operations, averaging the Fall (October) and supplemental (February) counts in the current school year, rather than using the standard 90-10 blend (90% of the Fall count and 10% of the supplemental count in the prior school year) used in existing districts and PSAs. This difference typically results in a slightly higher pupil membership count for the new PSA or, in this case, the cyber school.

The new limits imposed in the substitute bill on the number of authorized cyber schools – 15-30 schools authorized by community colleges and universities and one per school district, ISD, or joint effort – would not likely limit the overall number of additional cyber schools. Of the 31 current charter school authorizers in the state, 8 are public

universities, 2 are public community colleges, 1 is a tribal community college, 14 are ISDs, and 6 are local school districts. Pennsylvania, for example, has a very robust cyber school environment after operating for the last decade without a cap on the number of cyber schools or enrollment in cyber schools. Still, after decade of operating with cyber schools in the state without a limit on the number of schools or enrollment, there are currently 12 cyber schools operating in the current school year. The substitute bill also increases the enrollment cap for any one cyber school to half of the membership count for the largest school district (Detroit) in FY 2011-12. That equates to an enrollment cap of just over 33,000 membership pupils per school. By comparison, Pennsylvania, with a larger school enrollment than Michigan, had a total cyber school enrollment in FY2010-11 (in 11 schools) of just under 28,000.

Eliminating the requirement that cyber school students be previously enrolled in a public school would tend to increase statewide pupil counts, as many nonpublic school pupils and home-schooled pupils not previously enrolled in a public school could now become public school pupils enrolled via a cyber charter school. For example, in a February 2010 evaluation of cyber charter schools in Wisconsin, the Legislative Audit Bureau (LAB) reported that the number of home-school students rose annually between 1984-85 and 2002-03, the first year cyber charter schools were authorized. From 2002-03 to 2007-08, the number of home-schooled students declined 9.1%. The LAB reports that this drop is likely due, in part, to the availability of cyber schools as an option to parents and students. During that same period, enrollment in cyber schools grew from 257 to 2,912, while the number of cyber schools increased from 4 to 15.

Pennsylvania experienced similar enrollment patterns as well, with home-schooled enrollment dropping amid an expansion in the number of cyber schools and a significant increase in cyber school enrollment. Since 2000-01, the year before a major increase in cyber school enrollment, home-schooled enrollment in Pennsylvania has dropped by nearly 12%. After homeschooling was authorized in 1988, home-school enrollment steadily increased through 2000-01, a year with a substantial growth in the number of, and enrollment in, cyber schools.

Similarly, nonpublic school enrollment in Pennsylvania has declined in recent years as cyber schools have expanded, falling 10.4% since 2007-08, according to data from the Pennsylvania Department of Education. The increased availability of cyber schools could partially, but not entirely, explain this reduction in nonpublic and home-schooled students. According to data from the Pennsylvania Department of Education, enrollment in cyber schools in Pennsylvania grew to approximately 28,000 students during the 2010-11 school year (based on the October 1 count date). Since 2007-08, overall charter school enrollment has increased 32.1% while cyber school enrollment has increased by 40.9%, while the state experienced declines in enrollment in traditional school districts, public schools, and total enrollment. Over the last four years, cyber schools account for a greater share of charter school enrollment, public school enrollment, and total enrollment in Pennsylvania. While overall public school enrollment has declined, it accounts for a greater share of total enrollment since 2007-08.

The extent of this potential impact, resulting from SB 619, is not known. According to data from the Center for Educational Performance and Information (CEPI), about half of

the students enrolled in the two existing cyber PSA schools did not have a public school enrollment record for FY 2009-10, the year before the cyber schools began operations, suggesting that cyber schools are an attractive option for students not enrolled in a public school. (While current law requires that cyber schools only enroll students previously enrolled in a public school, it does not specify the point in time a student had to have been a public school student. Current law permits students on a shared-time basis and students who were at one point enrolled in public school to enroll in the cyber schools even though they were not enrolled in a public school in the year immediately preceding the year in which they enrolled in a cyber school.)

For state aid purposes, the State School Aid Act provides that the per pupil foundation allowance for PSAs (including cyber schools) is equal to the foundation allowance of the school district in which the PSA school is located, subject to a maximum PSA foundation allowance of \$7,110.

School Aid expenditures would also be affected depending on the physical location of the cyber school and the location of the school's students. If a cyber school is located in a school district with a higher foundation allowance, overall School Aid expenditures would increase, to the extent that students who enrolled were previously enrolled in a district with a lower foundation allowance. Conversely, if the cyber school is located in a school district with a lower foundation allowance, overall school aid expenditures would decrease to the extent if the students who enrolled had previously enrolled in a district with a higher foundation allowance.

The bill would also have an impact on traditional school districts and other PSAs, to the extent that students from those schools now enroll in a cyber school. Districts would lose foundation allowance aid and other categorical aid to the extent that former students switch to a cyber school. For FY 2010-11, the two existing cyber schools drew students from 228 school districts and PSAs.

## ***ARGUMENTS:***

### ***For:***

Proponents of the bill offer seven main arguments. First, they say Senate Bill 619 is part of a "parental empowerment package" that allows parents more options than those provided by traditional public schools. Other bills in the parental empowerment package expand share-time learning arrangements between public schools and nonpublic and homeschooled students, and provide for dual enrollment options with local community colleges. All of these bills remove barriers to parental choice, an important goal because parents are in the best position to know what kind of education their children need.

Second, proponents of the bill say that traditional schools do not serve all students well, citing most especially the advantages of cyber learning for students with physical disabilities. They note that in schools today, "students are exposed to economic, social, cultural and health influences that impact their ability to learn," and they say the cyber school option is necessary to meet societal demands. They note that cyber schools help families to "work to supplement family income; provide care for younger siblings; thwart bullying; gain a global perspective; and recover from or facilitate medical conditions."

These proponents also note that "it is well-documented that effective methods of instruction are varied dependent on the individual," influenced by lesson structure, sociological factors, auditory and visual stimulation, hands-on activities, and environmental distractions. They say cyber schools can provide the best fit for each student.

Third, some of those who support the bill argue that high quality is inherent in cyber school design, because given good information and parental choice, the array of cyber school options—both for-profit and non-profit—will be adequately regulated by market forces. Parents will not likely choose inadequate programs for their children. Nonetheless, under the bill cyber schools, like all other schools, will have to meet and report their results on the same student achievement standards, meet and offer the same core curricular requirements, and proctor the same assessments as do public schools throughout the state. Proponents say that cyber schools will be subject to the oversight of their authorizing agencies, and will be held accountable both to state laws and high standards. As the director of the Ferris State University Charter Schools office put it, "Ferris State University and members of the Michigan Council of Charter School Authorizers are committed to adhering to the Council's oversight accountability standards and the requirements of law. The implementation of oversight and accountability protocols along with the required use of assessment data to drive instructional decision-making is the basis of our focus on educating all groups of children."

Fourth, proponents of the bill say that it "levels the playing" field between traditional public schools and cyber schools when it comes to online learning. The bill, as amended in the House Education Committee, allows traditional public school districts the opportunity to design and operationalize cyber schools, too.

Fifth, proponents of the bill note that profit-making is already a part of public schooling in the United States, citing book publishers, material and supply providers, and the like. They say that for-profit companies have spurred innovation in school and course design, and that their foresight should be welcome by parents and students everywhere. For this reason, cyber schools should not be overregulated, or their performance over-monitored. Instead, cyber schools should be held to the same norms and standards as traditional public schools. If that is done fairly, there is ample evidence already that cyber schools will serve Michigan students well, and at times surpass the achievement gains in brick and mortar schools.

Sixth, proponents of the bill say that the long waiting lists for the two existing cyber schools stand as proof that many more cyber schools are needed, and that they should be authorized without delay.

Seventh, as to costs of the program, some proponents argue that the legislature's appropriations committees can design a system of payment that fairly compensates cyber education providers.

***Against:***

Opponents of the bill advance seven arguments against it. First, they say it is premature to lift the caps on the number of schools and the enrollment in each school. They argue



there is not enough achievement data on the two existing cyber schools to warrant this decision. State decision-makers should await the report on the two-year pilot project, due to be released later in 2012. Some of these opponents, including the State Board of Education, say that all cyber schools in the future should also have a two-year trial run and a performance review before they are allowed to expand. A two-year waiting period for new cyber schools would give policymakers the opportunity to meet demand for the school's services in an incremental, cost-effective way. This is a wise way to proceed given the cash-strapped state budget, and the recent reductions in the per pupil State School Aid payments to Michigan school districts and charter schools. These opponents ask: What's the sense in providing parental options, if the choices offered are low quality?

Second, some opponents of the bill say that profit-making and education do not mix. They note that there are six large national for-profit companies that set-up cyber schools; and that at least one of those is publicly traded on the New York Stock Exchange, revealing in financial statements their CEOs take millions of dollars out of the company in the form of compensation packages. Further, as for-profit corporations, they are free to do so without state oversight, and without first demonstrating their schools meet state achievement standards. These opponents do not believe that Michigan taxpayers want their tax dollars used to enhance profits for a few corporations based out-of-state, at the expense of their neighborhood school.

Third, opponents of the bill say the proposed caps on the number and size of cyber schools are far too high. They note that the current cap for two cyber schools is 2,000 students. In contrast, if each of the authorized schools under Senate Bill 619 were fully enrolled, the cap would be about 510,000 students until January 1, 2014, (when 15 cyber schools would be allowed), and then over 1 million students thereafter (when 30 cyber schools could be authorized). Some say such a "cap" is really "no cap at all."

Fourth, some opponents worry about the authenticity of cyber students' work. They point out that students must take the required state assessment examinations, but that they would do so online, and little to no supervision. These opponents say that some states' laws require that high-stakes assessments in cyber schools be proctored at central test-taking sites, in the same way that nonpublic school students take these assessments. They argue the bill should be amended to require central site proctoring for all state assessment exams.

Fifth, opponents say there is too little quality assurance in Senate Bill 619. Because it lacks quality standards, the cyber school bill risks wasting taxpayer dollars in unconscionable ways. They note that Senate Bill 619 scales up the number of cyber schools far too quickly. That kind of growth will guarantee large profits for corporations, but also guarantee unmanageable far-flung networks that cannot be held accountable by taxpayers. These opponents say the bill should be amended to adopt, at least, the quality standards proposed by Students First (an organization that supports the expansion of high quality cyber schools). That amendment would ensure the slow, steady, and accountable growth of cyber schools in Michigan.

Sixth, some opponents of the bill argue that cyber schools in Michigan should retain the mission originally set out for them two years ago: a sharp focus on urban and at-risk students, and most especially dropouts. They say the bill should be amended to explicitly assert this as the central mission of cyber schools.

Seventh, some opponents who are educational professionals argue that parental choice should be limited to high quality educational options. Further, they say that these high quality options should be identified by educators, and then selected by parents working in conjunction with their students, educators, and the school social workers who are specifically trained to guide the learning and social development of young adults and children. They say that while parents (nearly) always *want* what's best for their children, they do not always *know* what's best. It is at these times that professional educators can offer assistance based on their education and experience. Educated to diagnose comprehension problems, they can design learning tasks for the student within the subject matter discipline, and then assess their progress. This customarily works best when teachers and students have face-to-face contact, and thoughtful interactions about subject matter.

***POSITIONS:***

The Michigan Association of Non-Public Schools supports the bill. (1-18-12)

Americans for Prosperity-Michigan supports the bill. (1-18-12)

The Michigan Catholic Conference supports the bill. (1-18-12)

Michigan Virtual Charter Academy supports the bill. (1-25-12)

Students First supports the bill. (1-25-12)

The GLEP Education Fund supports the bill. (1-25-12)

Connections Academy supports the bill. (1-25-12)

The Michigan Association of Public School Academies supports the bill. (2-1-12)

The Ferris State University Charter Schools Office supports the bill. (2-1-12)

A number of Michigan families with school-aged children or grandchildren testified in favor of the bill, some proposing changes. (1-25-12 and 2-1-12)

The Michigan Department of Education and the State Board of Education oppose the bill until the state has two years of data on the two schools currently in operation. (1-18-12)

The Michigan Community College Association opposes the bill. (1-18-12)

The Michigan Association of School Social Workers opposes the bill. (1-18-12)

The Macomb Intermediate School District opposes the bill. (1-18-12)

The Oakland Schools oppose the bill. (1-18-12)

MEA Local 1 and the 6-E Coordinating Council oppose the bill. (1-18-12)

The Genesee Intermediate School District opposes the bill. (1-25-12)

Wayne RESA opposes the bill. (1-25-12)

The WAY Program opposes the bill. (2-1-12)

Niles Community Schools opposes the bill. (2-1-12)

The Tri-County Alliance for Public Education opposes the bill. (2-1-12)

The Michigan Association of School Boards opposes the bill. (2-1-12)

Northview Public Schools opposes the bill. (2-1-12)

Bangor Public Schools opposes the bill. (2-1-12)

The Michigan Elementary and Middle School Principals Association (MEMSA) opposes the bill. (2-1-12)

The Hopkins Public Schools oppose the bill. (2-1-12)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.