

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: SB 209

48th Legislature, 1st Session, 2007

Short Title: Cyber Academy Act

Sponsor(s): Senator Cynthia Nava

Analyst: Peter van Moorsel

Date: January 29, 2007

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

- SB 209 creates the statewide cyber academy in the Public Education Department (PED) to provide distance learning courses for grades 6 through 12 and professional development for teachers, instructional support providers, and school administrators. The cyber academy is a collaborative program among PED, the Higher Education Department (HED), telecommunications networks, and representatives of other state agencies engaged in providing distance education.

SB 209 defines the following terms:

- “learning management system” — a software program application that facilitates online instruction and interaction between teachers and distance learning students;
- “primary enrolling district” — the school district or charter school in which the distance learning student is enrolled;
- “regional host” — an educational institution or other person selected by the cyber academy to coordinate the delivery of distance learning courses within a broad geographic region of the state; and
- “service center” — the single central facility where administrative and management functions of the cyber academy are physically located.

For eligibility purposes, a distance learning student must be enrolled in a public school and must have the permission of the student’s local distance learning site to enroll in a distance learning course. For the purpose of funding, a distance learning student shall be counted only in the student’s primary enrolling district. SB 209 also specifies that a student must have only one primary enrolling district.

SB 209 provides that, among its duties, the statewide cyber academy must give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or because of circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers. In FY 08 the cyber academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of regional education cooperatives (RECs) 3, 8, and 9.

Among its other duties, the cyber academy must:

- establish a distance learning course delivery system that uses a statewide service center and regional hosts and that offers distance learning courses to distance learning students, as well as distance learning professional development to teachers and administrators;
- select regional hosts that have pre-existing experience and capacity to facilitate the delivery of distance educational programs;
- provide technical and program support to regional hosts and local distance learning sites;
- ensure that distance learning courses are taught by highly qualified teachers and meet state academic content and performance standards;
- ensure that all infrastructure, hardware, and software in the cyber academy are maintained to educational technology adequacy standards, including compliance with all rules governing privacy and confidentiality of student records for secure record storage; and
- conduct an annual evaluation and provide an annual report to PED and the Legislature.

SB 209 amends Section 22-15A-7 NMSA 1978, regarding the duties of the Council on Technology in Education, to include a cyber academy plan for distance learning in the statewide plan that the council recommends to the department.

SB 209 contains a temporary provision specifying that a network developed by RECs 3, 8, and 9 must serve as a regional host for the cyber academy for FY 08. The bill further requires the cyber academy, by January 1, 2008, to provide a preliminary report to the Governor and the Legislature on:

- the quality and the cost-effectiveness of the services provided;
- whether the services increased the rigor of school curricula; and
- whether it recommends the expansion of the REC distance learning network to other RECs.

Fiscal Impact:

\$10.75 million is appropriated as follows:

- \$8.5 million from the Computer Systems Enhancement Fund to HED for FY 08 to fund the infrastructure for a sustainable statewide support system for distance learning in New Mexico, including purchase of equipment, software, materials, and contractual services. Any unexpended or unencumbered balance at the end of FY 08 shall revert to the Computer Systems Enhancement Fund;
- \$2.25 million is appropriated from the General Fund for FY 08 as follows:
 - \$1.45 million to HED for program administration, information technology services, and maintenance costs;
 - \$800,000 to PED, to be allocated as follows:
 - \$630,000 for initial program costs for the cyber academy for program administration, professional development, curriculum development and purchase, and program costs;
 - \$120,000 for distribution to RECs 3, 8, and 9 for distance learning networks to facilitate the exchange of courses and teaching services, and to enable member public schools to offer their students more rigorous and more relevant courses, including offering Algebra I to middle school students, and to offer their teachers and administrators expanded professional development opportunities;

- \$50,000 for distribution to Rio Rancho Cyber Academy to fund its operation and the expansion of its course offerings; and
- \$400,000 for distribution to school districts to support distance learning.

Technical Corrections:

Line 7 of page 8 of SB 209 lists \$2.25 million in appropriations. Line 15 on the same page lists the portion of this appropriation that is allocated to PED: \$800,000. However, the individual allocations (a) through (d) on pages 8 and 9 total \$1.2 million. Therefore, the sponsor may wish to consider amending the language to read:

“B. Two million ~~two~~ six hundred fifty thousand dollars (~~\$2,250,000~~) (\$2,650,000) is appropriated from the general fund to the following agencies for expenditure in fiscal years 2007 and 2008 to support the creation of the New Mexico cyber academy:

(1) one million four hundred fifty thousand dollars (\$1,450,000) to the higher education department for program administration, information technology services and maintenance costs; and

(2) ~~eight hundred thousand dollars (\$800,000)~~ one million two hundred thousand dollars (\$1,200,000) to the public education department to be allocated as follows:”

This amendment would increase the total appropriation from \$10.75 million to \$11.15 million.

Issues:

During the 2006 interim, the Legislative Education Study Committee (LESC) heard testimony from representatives of the PED/HED task force that included a discussion of the framework for an e-learning solution “to create a sustainable, statewide eLearning support program that will allow public education, higher education, and state government agencies to better serve the needs of all New Mexico learners” regardless of where they live.

Formed to study P-20 distance education, and comprising representatives from PED and HED, as well as other stakeholders, the task force has identified the following priority distance learning needs for New Mexico that are addressed in SB 209:

- To provide all New Mexico students quality courses they are unable to obtain in a face-to-face setting. There is a growing demand to address the increasing academic requirements of middle school and high school students through the use of web-based courses.
- To provide high-quality professional development and training to educational staff across New Mexico to benefit, among others, smaller rural high schools that have a difficult time recruiting and retaining teachers.
- To remedy existing educational inequities affecting all New Mexicans by improving access to education, enhancing completion, maximizing workforce preparedness, and empowering participation in lifelong learning opportunities.
- To remain competitive with other states as the country moves rapidly into the digital age.
- To provide, through a statewide investment in a learning management system, a cost-effective approach to expanding access to education, a common platform for improving teaching methods, and improved reporting capability.

The PED/HED distance education task force has developed the New Mexico Cyber Academy Operating Model, which clarifies the roles of students, local schools, PED, and the eLearning teacher in the operation of the New Mexico Cyber Academy (see Attachment).

PED reports that there is a need for governance and accountability in distance learning to ensure that courses taught meet state standards and benchmarks, and to avoid competition between school districts for students and the State Equalization Guarantee funding that they generate. Some regulatory concerns are addressed in 6.30.8 NMAC, a rule drafted by PED, taking into account input from the LESC during testimony to the committee. To illustrate its concern about regulatory issues associated with distance learning, PED cites a 2006 audit of online schools in Colorado, which revealed limited state monitoring of the quality of those online students' education or how public tax dollars allocated to online schools were being spent.

Keeping Pace with K-12 Online Learning, a 2006 report assessing the status of online learning in the United States, states that the rapidly changing technology associated with online learning makes the creation of an appropriate policy framework a challenge. However, the report states that most practitioners recognize that some regulation is necessary for the long-term sustainable growth of online education.

Other information provided to the LESC during its hearings on distance learning indicated that opportunities for distance learning in the United States have increased dramatically during recent years. As early as school year 2002-2003, approximately one-third of school districts nationwide had students enrolled in distance education courses; and, by July 2005, 21 states had statewide online learning programs, with cyber schools or district-level programs in operation in almost every state. Some of the advantages of distance learning programs are that they are not limited by the geographic boundaries or daily schedules of regular schools; and they can cater to unique learning styles, offer multiple curriculum choices, and provide links between students and teachers with special expertise who live far away.

Related Bills:

SB 352 *Rio Rancho Cyber Academy Courses* (identical to HB 435)

HB 201 *Cyber Academy Act* [identical]

HB 435 *Rio Rancho Cyber Academy Courses* (identical to SB 352)