



LFC Requester: Liu

**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2026 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: January 31 2026

Bill No: HB240

Committee Referrals: Not Printed

Sponsor: Montoya / Armstrong / Sena  
Cortez / Block / Jones

Agency Name and Code: PED - 924

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**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY27	FY28		
\$100,580	None	Nonrecurring	GF

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY27	FY28	FY29		
None	None	None	N/A	NFA

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	None	N/A	NFA

Duplicates/Relates to Appropriation in the General Appropriation Act: None as of 2/7/26.

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: House Bill 240 (HB240) would create an educational voucher system, to be called the Education Opportunity Account Program, which would authorize the Public Education Department (PED) to provide Education Opportunity Accounts (EOAs) for eligible children, funded through a newly created Education Opportunity Account Fund. Parents would apply on behalf of their children, and funds would be deposited into the child's EOA. The PED would use those funds to pay for approved educational services and expenses contracted with the parent.

HB240 would also mandate the creation of the "Education Opportunity Review Commission" to assist the department in determining what expenditures meet the requirements to be considered qualifying education expenses. The commission would consist of nine voting members of whom five must be parents of participants and represent no fewer than four counties of the state, and four being New-Mexico-licensed educators. The voting members shall be appointed by the secretary and serve at the secretary's discretion.

The bill further requires PED to report to the legislature and the Governor by December 1 of each year on both the program and its participants. The report would include details on the grades, demographics, locations, and ages of the participants as well as details on the program including providers, expenditures and related information.

Finally, HB240 would make several appropriations, including \$580 thousand for the PED to administer the EOA program and \$100 million to carry out the Act and includes a severability clause.

This bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the Legislature enacting them, unless a later date is specified. If enacted, this bill would become effective May 20, 2026.

### **FISCAL IMPLICATIONS**

HB240 appropriates approximately \$100 million from the general fund to the education opportunity account fund, to use public taxpayer dollars to defray the costs of individual private school education. Additionally, \$580 thousand would be appropriated to the PED to administer the education opportunity account program.

The \$100 million would be appropriated to the PED exclusively to carry out the purposes of the EOA Act. Any unexpended or unencumbered balance remaining at the end of FY26 would not revert to the general fund. The PED would be prohibited from using any of these appropriations for indirect costs, overhead or any purpose other than administration of the EOA program. The bill requires any unexpended or unencumbered balance in an education opportunity account to remain in the account until one of the following occurs, at which time the department shall close the account, and any unexpended or unencumbered balance shall revert to the general fund:

- the parent withdraws the participating student from the program;
- the student graduates from high school; or
- the account is closed by the PED because of misuse of funds.

The bill would establish a non-reverting fund in the state treasury to support the program and money for the fund comes from either legislative appropriations, federal funds, or investment income. The PED would be in charge of administering the fund with only the following educational expenses being suitable uses for the funding:

- tuition and fees at private elementary or secondary schools that teach reading, language arts, math, science and social studies;
- tutoring services provided by a qualified person;
- textbooks and other instructional materials;
- fees for nationally standardized assessments, advanced placement examination fees and other assessments;
- tuition or fees for summer and after school elementary or secondary programs;
- public transportation to and from school; and
- other educational charges approved by the department.

The PED shall also revert any unexpended or unencumbered balance every two years, unless the department waives a particular reversion due to extenuating circumstances.

Data from the [National Center for Education Statistics](#) shows that in the 2022 school year (the most recent data available), New Mexico had 164 private schools enrolling 22,156 students. The lowest student cost with the lowest at-risk allocation in New Mexico would be \$5,972.69, while the highest student cost with the highest at-risk allocation would be \$20,188.46. Therefore, the lower estimates of the total cost for the program would be \$132.3 million, while the high end estimates of the total cost would be \$447.3 million for the 22,156 students enrolled in private school. Private schools vary in the degree of transparency and accountability since they are under no obligation to participate in state assessments, and fewer performance reporting make it difficult for families to make informed decisions for their child's education.

The [National Education Policy Center](#) notes that ESAs are already the least regulated approach in the highly deregulated world of vouchers, and there are numerous cases where fiscal scandals have prompted calls for greater accountability in the existing choice system.

## **SIGNIFICANT ISSUES**

HB240 would establish EOAs within New Mexico, a policy framework similar to education savings accounts tied to school choice laws in other states. EOAs generally allow state education funding to be distributed directly to parents or guardians in the form of accounts that can be used for a range of approved education expenses outside traditional public schools such as tutoring, private school tuition, online learning providers, special education services, curriculum materials, and other instructional supports.

These accounts are typically aimed at expanding educational choice, especially for families dissatisfied with their assigned public school or seeking specialized instruction. In other states, similar programs are sometimes referred to as Education Savings Accounts (ESAs) or Opportunity Scholarship Accounts. Across the country, legislation supporting private educational choice programs have expanded to include [34 states, Washington, D.C., and Puerto Rico](#), while [18 states offer ESA programs](#) (with universal eligibility defining this trend). However, the [Brookings](#)

[Institute](#) notes that wealthier families are securing a higher share of these scholarships.

Looking at individual state programs, Arizona offers [Empowerment Scholarship Accounts](#), which, while similar to the EOAs proposed in HB240, was originally more narrowly focused but expanded to universal eligibility (originally, the accounts were open to special needs, low-income, foster care children, and other less-typical student groups). Funds equal up to 90 percent of per-pupil funding but have broad use cases including for curriculum, private school tuition, therapy, technology, and online programs. The recent expansion ESA program [cost nearly \\$700 million](#) for approximately 71,520 students for SY24 and 75 percent of participants were awarded under universal eligibility. This cost is 892 percent higher than had been initially projected by the Arizona Joint Legislative Budget Committee in 2022.

Alternatively, Mississippi created an [ESA program in 2015](#) (with [updated legislation in 2024](#)), however it is only available to students with special needs. While still focused on school choice, Mississippi's ESA is designed to give those parents with special needs children the option of withdrawing their child from the public school system and receiving a designated amount of funds to help defray the cost of private school tuition or other specific allowable activities to educate their child. Like HB240 however, the administration of the program is performed by the Mississippi Department of Education. [Previous estimates](#) list the costs of the program for 2025 school year as being capped at \$7,829 per student.

New Hampshire, through [Senate Bill 295](#), expanded access to the state's Education Freedom Accounts program by adopting universal eligibility with an initial enrollment cap of 10,000. However, as the program hit the 10,000 cap this year, the cap will be increased to 12,500 in the next school year. This new cap, with similar distributions of children from lower income households, special education needs and English as a second language students, would have projected costs of \$61.4 million while \$47 million is budgeted for FY27 (\$14.4 million over budget). The total cost of the EFA program for the biennium would project to be \$113 million, or \$26.7 million over budget for the biennium, per [local reporting](#).

In Texas, Governor Greg Abbott [made school choice his priority for 2025](#), and Texas lawmakers responded by adopting the state's first private school choice program and the largest day one ESA in the country through the passage of [Senate Bill 2](#). This bill appropriated \$1 billion for the program, making Texas one of 17 states to provide universal student eligibility for private school choice. Under the new law, families can use ESA funds to cover a wide range of educational expenses including private school tuition, instructional materials, transportation and other approved educational expenses. Estimates from the state's [Legislative Budget Board](#) show that the program could cost \$2 billion annually by 2028. At the same time, Texas Education agency officials believe roughly 42,000 additional students could leave public schools for private ones by that same year.

As is the case with many of the states that have adopted ESA-type programs, the vast majority of students are not attending public schools but instead attend religious and other private schools or are homeschooled when they join the program, continuing the trend of increasing amounts of public dollars being pulled from distribution to public schools to defray costs associated with greater parental "school choice".. In [New Hampshire](#), this includes 80 percent of those students participating in the Education Freedom Accounts. Overall, for many of the families whose children

attend religious and private schools or homeschools, they receive what is essentially a state tax paid subsidy for participation in these ESA programs.

## **PERFORMANCE IMPLICATIONS**

The [National Education Policy Center \(NEPC\)](#) notes the dearth of studies examining the link between voucher programs and student achievement. Across locations and student types, empirical research has consistently found voucher programs linked to negative effects on student achievement, sometimes notably large effects, particularly in mathematics.

This research has been consistent over time. As the [2018 report from the NEPC](#) indicates, before the trend in expansion across the country, ESAs were unlikely to result in higher test scores due to problems with accountability and access to performance metrics. Three jurisdictions in particular – Louisiana, Ohio, and Washington, DC – saw a decrease in language arts and math for students leaving public schools for private schools. Similarly, a [2019 study of Indiana’s Choice Scholarship program](#) found that upper elementary and middle school students who transfer from a public school to private school using the program do worse, on average, on math tests in their new private school than they did in their prior public school.

## **ADMINISTRATIVE IMPLICATIONS**

HB240 would require the PED to, by rule, delineate the application process and procedures for prospective education service providers to apply for listing as an eligible education service provider. In addition, it also requires the PED to administer the program, and while the bill does allow contracting with private organizations to do so, the process will nevertheless require both funding and time in either case. While outsourcing program administration may reduce an FTE requirement for the PED, setting up the system and ultimately paying contractors would still be necessary.

The bill would establish a formal, annual contract between the PED and the parent, with the latter specifying which services are to be purchased. The PED cannot deposit more funds than the cost of services in the contract. The overall process would function by application with parents formally applying to the PED, which would need to accept and approve these applications year-round, establish a standard application, and approve accounts if funds are available and the child is eligible. Parents would need to sign a contract agreeing to provide an education in core subjects, not enroll the child full-time in public school while receiving an EOA, use funds only for qualifying expenses, and comply with program rules.

Furthermore, the bill places the burden of informing parents across the state of the new program on the PED and specifically mandates that the department provide parents with a written explanation of the allowable uses of education opportunity account funds, the responsibilities of parents in ensuring the education of their children, the duties of the department and the role of any private financial management firms or other private organizations that the department may contract with to administer the program or any aspect of the program. There is also a further notification requirement for all parents with students with disabilities. Combined, these represent significant fiscal and labor expenditures on behalf of the PED.

The bill requires the PED to establish procedures and rules for creating, accepting, and approving a standard form application for education opportunity accounts year-round, and requires an annual report of the program and its participants by December 1 to the Legislature and Governor. Additional FTEs will be needed in order to administer this new program. HB240 would require a quick turnaround from the PED if it were to be implemented in FY27. Accomplishing all aspects required by the bill would require additional staff and infrastructure.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to [House Bill 193](#) which would permit the withholding of tax credits to transfer their value to payments for students to attend private schools, diverting funds before they enter the public fisc.

## **TECHNICAL ISSUES**

The sponsors may wish to clarify the timeline for approving applications, as the current wording requiring that applications would need to be approved “in an expeditious manner,” is vague and leaves room for uncertainty. Given that EOAs can be used to pay for different educational services and materials, ensuring that the process has clear deadlines would be beneficial.

Similarly, the bill requires PED to revert any unexpended or unencumbered balance in an education opportunity account every two years, unless the department waives a particular reversion due to “extenuating circumstances”, but fails to define or otherwise delineate what constitutes “extenuating circumstances”.

## **OTHER SUBSTANTIVE ISSUES**

The [Scholarship for Opportunity and Results \(SOAR\) Act](#) was reauthorized by Congress in 2011 to provide tuition vouchers to low-income parents in the District of Columbia (DC) who wanted their children to attend private schools. The legislation revised the 2004 Opportunity Scholarship Program (OSP) by prioritizing students leaving low-performing public schools and providing them with scholarships of about \$8 thousand for K-8 and \$12 thousand for grades 9-12. The reauthorization required an evaluation of the 2004 legislation two years after eligible families applies to the program. The OSP had statistically significant negative impact on mathematics achievement after two years, compared with students who applied but were not selected for the scholarship. Reading scores were also lower, but the differences were not statistically significant.

## **ALTERNATIVES**

None.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

## **AMENDMENTS**

See, “Technical Issues,” above.