



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: February 9 2026

Bill No: \*HB253/HECSs

Committee Referrals: HEC/HAFC

**Agency Name and Code:** PED - 924

Sponsor: Garratt / Herrera / Soules

**PED Lead Analyst:** Duncan Christensen

**Phone:** (505) 500-9940 **Email:** Duncan.christensen@ped.nm.gov

**Short Title:** PUBLIC EDUCATION  
CHANGES

**PED Policy Senior Manager:** denise terrazas

**Phone:** (505) 470-5303 **Email:** denise.terrazas@ped.nm.gov

**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY27	FY28		
None	None	N/A	NFA

**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: [House Bill 2](#), the General Appropriation Act of 2026, does not include an additional appropriation related to distance learning, but does provide language authorizing the Secretary of Public Education to adjust the unit value (no later than January 31, 2027) based on the verification of the number of units statewide.

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis of HEC Substitute: The House Education Committee (HEC) Substitute for \*House Bill 253 (\*HB253/HECS) would amend the Public School Finance Act ([Section 22-8 NMSA 1978](#)) to define “distance learning student” for funding and reporting purposes and to require school districts and charter schools to report projected and actual membership for students enrolled in full-time distance learning programs. The bill would prohibit distance learning students from generating rural population program units under the State Equalization Guarantee (SEG). \*HB253/HECS is accompanied by House Executive Message No. 52.

The bill would rename the Statewide Cyber Academy Act ([Section 22-30 et seq. NMSA 1978](#)) as the Distance Learning Act, remove outdated definitions, and establish new statutory definitions. School districts and charter schools with distance learning programs would be required to administer these programs in compliance with the Public School Code and only provide distance learning courses taught by qualified instructors that meet the Public Education Department (PED)’s academic content and performance standards.

Section 13 of the bill would enact temporary provisions, including altering the program unit calculation for fiscal year 2026; making students enrolled in full-time distance learning programs ineligible to generate enrollment growth units in fiscal years 2026 and 2027; prohibiting districts and charter schools from reorganizing or creating programs in which a majority of students are enrolled in distance learning; and requiring the Legislative Education Study Committee (LESC), in collaboration with the Legislative Finance Committee (LFC) and the PED, to conduct a comprehensive study on distance learning instruction in the state.

Section 14 of the bill would repeal [Section 22-30-8 NMSA 1978](#) in its entirety, which provided for the valuation of regional education cooperative distance learning networks.

This bill contains an emergency clause which would allow it to take effect immediately upon signature by the governor, however that immediate effective date would apply only to Section 13 of the bill, the temporary provision enrollment and program units for fiscal years 2026 and 2027. The effective date of the remainder of the bill, Sections 1 through 12 and Section 14, is July 1, 2026.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation.

The Statewide Cyber Academy has not been funded since 2016, and there is no appropriation for it contained within the current version of the General Appropriation Act.

Current projections indicate the final school year 2025–2026 unit value could decrease from the initial unit value of \$6,801.35 due to significant membership growth associated with full-time distance learning programs. Specifically, two districts assumed a full-time distance learning program contract in FY26 that had been operated by another district through the end of FY25. Based on current assumptions, maintaining the school year 2025-2026 initial unit value at

\$6,801.35 would require approximately \$26.997 million.

	<b>Unit value</b>	<b>Increase or (Decrease)</b>
	<i>Initial Unit Value: \$6,801.35</i>	
<b>*HB253/HECS not enacted</b>	\$6,760.35	(\$41.00)
<b>*HB253/HECS enacted</b>	\$6,899.35	\$98.00

Note: Estimates are based on 40-day data that are not yet finalized and are therefore subject to change. In addition, distance learning student information has not yet been collected from every school district or charter school. Projected funding scenarios will change as data are verified.

## **SIGNIFICANT ISSUES**

\*HB253/HECS would modify the calculation of additional program units for schools with high rural populations (greater than 40 percent). The modified formula would require that the full-time-equivalent MEM used to calculate rural population units exclude membership derived from distance learning students.

The bill would also establish requirements for the operation of full-time distance learning programs in New Mexico. The bill authorizes the PED, by the end of SY28 and at least every five years thereafter, to evaluate and certify that distance learning programs are in compliance with the Public School Code and related rules. The bill would further clarify that distance learning courses be taught by licensed teachers or faculty members of accredited post-secondary educational institutions. If the PED determines that a full-time distance learning program is not in compliance, it would be allowed to withhold up to 100 percent of allotments of funding for distance learning students from the school district or charter school that operates the program. These funds would be withheld until the local superintendent or head administrator submits, and has approved by the PED, a plan to return to compliance.

Several temporary provisions would provide additional time and controls to address significant recent growth in full-time distance learning enrollment and its impact on the state equalization guarantee. In particular, the bill would proscribe (in fiscal years 2026 and 2027), a school district or charter school from counting distance learning students in calculating their enrollment growth program units. Similarly, school districts with MEM over eight thousand would be required to calculate the total number of program units by using the school district's MEM on the first reporting date of fiscal year 2026 if that MEM is at least 10 percent lower than the school district's MEM on the first reporting date of fiscal year 2025. As of February 4, 2026, two districts have not yet finalized 40-day reporting, and statewide projections remain preliminary pending verification of unusually large increases in reported distance learning enrollment.

For FY27, the temporary provisions would stabilize enrollment and funding. The bill would pause further expansion of full-time distance learning programs by restricting school districts and charter schools from reorganizing to create new distance learning programs that would enroll a majority of students in full-time distance learning.

Distance learning is not a new concept in New Mexico. In FY17, there were more than 2,000

students enrolled in virtual charter schools where students received all of their instruction online and were not required to attend classes at a physical school location per the [Legislative Education Study Committee \(LESC\)’s report](#) that same year. The report indicated that distance learning student outcomes lagged behind the outcomes of their peers. Despite nearly a decade since that report and a dramatic increase in the total number of students enrolled in virtual or distance learning, the outcomes and proficiency data have not improved. PED began a statewide survey and worksheet data collection effort in January 2025. Preliminary responses indicate at least 9,000 students are enrolled in distance learning statewide; totals will change as additional responses are received and verified.

In a systematic review of studies in [PubMed Central](#), the authors found a total of 1,787 articles on distance learning. The consensus in the research is that academic performance was negatively affected by the transition to distance learning, with lower scores in standardized tests, and economically disadvantaged students experiencing larger learning delays when distance learning. Furthermore, educators, parents, and students reported disorganization, increased academic demands, and motivational and behavioral changes.

More long-term studies highlight similar issues. The [National Education Policy Center \(NEPC\)](#) has published an annual report on distance learning for more than a decade and has consistently found that distance or “virtual schools in general perform poorly, state virtual school policies remain inadequate, and little if any research supports the claims being made for virtual education.” The report also notes that despite these problems, distance learning and virtual schools have continued to spread. Even with a large decrease in enrollment (65,000 students) over the last several years, the net number of full-time distance learning schools in the nation continues to grow; 726 schools were full-time distance learning in the 2021-22 school year, up from 249 in the 2019-2020 school year. Despite the continued growth of distance learning institutions, the NEPC noted that only 18 of 35 states with full-time virtual schools had any performance data available.

District-reported data [presented by Gallup-McKinley County Schools at the Legislative Education Study Committee hearing on September 3, 2025](#) indicate lower graduation rates and lower assessment proficiency for students enrolled in the district’s full-time distance learning program compared with in-person students and statewide averages. These results are consistent with broader research findings regarding performance challenges in full-time distance learning environments.

State policy responses to growing full-time distance learning enrollment vary, and many states have not enacted comprehensive statutory changes related to funding and accountability. Arizona has already passed similar legislation, aimed at addressing both academic outcomes and funding discrepancies. [Arizona Online Instruction](#) established funding for distance learning. Schools receive 95 percent of the state’s base funding level per full-time online student and 85 percent for each part-time online student.

## **PERFORMANCE IMPLICATIONS**

Distance learning enrollment is associated with lower proficiency and other social and academic outcomes, consistent with findings in the research cited above. Full-time distance learning may be particularly challenging for early elementary students given supervision needs and foundational skill development.

## **ADMINISTRATIVE IMPLICATIONS**

\*HB253/HECS would require the PED to incorporate data on distance learning programs into its procedures for data collection and publication.

The PED would also be responsible for certifying distance learning programs are following state statute and administrative code at a minimum every five years.

\*HB253/HECS would further require that the PED collaborate with the LFC and LESC to conduct a comprehensive study on virtual instruction in the state. While the overall aim of the study would be to evaluate the status of distance learning programs and to assess the outcomes of students enrolled in the programs, the bill puts a particular emphasis on the effects for K-5 students, the cost of operating the programs, and any potential legislative action targeting distance learning programs. A final report would be submitted by the LESC to the governor, PED, and the LFC before November 1, 2026.

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

Relates to [Senate Bill 19](#) which would allow the Secretary of the PED to adjust the unit value no later than February 27, 2026, in consultation with the Department of Finance and Administration, the Legislative Finance Committee and the Legislative Education Study Committee.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

The negative aspects of distance learning are not applied equally. A [2024 Public Health study](#) on the effects of distance learning in K-12 schools, using data from 11,017 school districts from the 2018-2019 and 2021-2022 school years, showed that districts with more virtual school days in 2020-2021 had higher rates of chronic absenteeism during the 2021-2022 school year. Most crucially however, these higher rates of absenteeism were significantly greater in school districts with higher levels of poverty.

Similarly, the [Stanford Center on Poverty and Inequality](#) also highlights how distance learning exacerbates pre-existing issues of poverty, inequality, and discrimination. Outside of the more obvious problems of lack of access to adequate internet and devices, there are major structural issues of environment and overall support. Crucially, the conclusion reached by the [Department of Education's Office of Civil Rights](#) in their report, found that digital learning was particularly less effective for children of color, children in low-income families, and high-need students. Given the overlap between the student population in New Mexico and those that are particularly vulnerable to these issues, failure to address this gap could have a disproportionate impact on the students in the state.

## **ALTERNATIVES**

None.

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

If this bill is not enacted, PED anticipates the unit value would decrease by an estimated \$41. A statewide unit value reduction would require districts and charter schools to absorb midyear budget reductions, which could result in staffing impacts and reductions to programming and services for the remainder of the fiscal year.

## **AMENDMENTS**

None.