

HOUSE EDUCATION COMMITTEE SUBSTITUTE FOR
HOUSE BILL 253

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL FINANCE
ACT; REQUIRING SCHOOL DISTRICTS AND CHARTER SCHOOLS TO REPORT
MEMBERSHIP ESTIMATES OF STUDENTS TO BE ENROLLED AS DISTANCE
LEARNING STUDENTS; REQUIRING SCHOOL DISTRICTS AND CHARTER
SCHOOLS TO MAINTAIN CERTAIN RECORDS REGARDING STUDENTS ENROLLED
IN A DISTANCE LEARNING PROGRAM; EXCLUDING A SCHOOL DISTRICT'S
MEMBERSHIP OF STUDENTS ENROLLED IN DISTANCE LEARNING PROGRAMS
FROM THE CALCULATION FOR SIZE ADJUSTMENT PROGRAM UNITS;
AMENDING THE STATEWIDE CYBER ACADEMY ACT AND RENAMING THAT ACT
THE "DISTANCE LEARNING ACT"; REMOVING EXISTING DEFINITIONS AND
DEFINING NEW TERMS IN THE PUBLIC SCHOOL FINANCE ACT AND THE
DISTANCE LEARNING ACT; REMOVING THE REQUIREMENT THAT THE
STATEWIDE CYBER ACADEMY BE A COLLABORATIVE PROGRAM; PROVIDING
ALL-NEW REQUIREMENTS FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS
THAT OPERATE DISTANCE LEARNING PROGRAMS; PLACING RESTRICTIONS

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1 ON STUDENT ENROLLMENT IN DISTANCE LEARNING PROGRAMS AND
2 PROVIDING EXCEPTIONS; CLARIFYING THE REQUIREMENTS OF SCHOOL
3 DISTRICTS AND CHARTER SCHOOLS REGARDING DISTANCE LEARNING AND
4 STUDENTS WITH DISABILITIES; REQUIRING PUBLIC EDUCATION
5 DEPARTMENT APPROVAL OF DISTANCE LEARNING PROGRAMS; PROVIDING A
6 PROCESS FOR SCHOOL DISTRICTS AND CHARTER SCHOOLS TO APPLY FOR
7 APPROVAL OF A PROGRAM; MAKING CONFORMING AMENDMENTS; ENACTING
8 TEMPORARY PROVISIONS RELATING TO THE PUBLIC SCHOOL FINANCE ACT;
9 ENACTING TEMPORARY PROVISIONS RELATING TO THE DISTANCE LEARNING
10 ACT; REPEALING SECTION 22-30-8 NMSA 1978 (BEING LAWS 2007,
11 CHAPTER 292, SECTION 7 AND LAWS 2007, CHAPTER 293, SECTION 7);
12 DECLARING AN EMERGENCY.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 22-8-2 NMSA 1978 (being Laws 1978,
16 Chapter 128, Section 3, as amended) is amended to read:

17 "22-8-2. DEFINITIONS.--As used in the Public School
18 Finance Act:

19 A. "ADM" or "MEM" means membership;

20 B. "membership" means the total enrollment of
21 qualified students on the current roll of a class or school on
22 a specified day. The current roll is established by the
23 addition of original entries and reentries minus withdrawals.
24 Withdrawals of students, in addition to students formally
25 withdrawn from the public school, include students absent from

.233731.3

1 the public school for as many as ten consecutive school days;
 2 provided that withdrawals do not include students who are in
 3 need of intervention or who are chronically or excessively
 4 absent;

5 C. "basic program ADM" or "basic program MEM" means
 6 the MEM of qualified students but excludes the full-time-
 7 equivalent MEM in early childhood education and three- and
 8 four-year-old students receiving special education services;

9 D. "cost differential factor" is the numerical
 10 expression of the ratio of the cost of a particular segment of
 11 the school program to the cost of the basic program in grades
 12 four through six;

13 E. "department" or "division" means the public
 14 education department;

15 F. "distance learning student" means a qualified
 16 student who receives full-time virtual instruction and is not
 17 required to attend school at a school building;

18 [~~F.~~] G. "early childhood education ADM" or "early
 19 childhood education MEM" means the full-time-equivalent MEM of
 20 students attending approved early childhood education programs;

21 [~~G.~~] H. "family income index rate" means the
 22 percentage of students in a school district or charter school
 23 that is identified as either extremely low income or very low
 24 income by the family income index;

25 [~~H.~~] I. "full-time-equivalent ADM" or "full-time-

.233731.3

1 equivalent MEM" is that membership calculated by applying to
2 the MEM in an approved public school program the ratio of the
3 number of hours per school day devoted to the program to six
4 hours or the number of hours per school week devoted to the
5 program to thirty hours;

6 ~~[I.]~~ J. "operating budget" means the annual
7 financial plan and educational plan required to be submitted by
8 a local school board or governing body of a state-chartered
9 charter school;

10 ~~[J.]~~ K. "performance measure" means a quantitative
11 indicator used to assess the output or outcome of an approved
12 program;

13 ~~[K.]~~ L. "performance target" means the expected
14 level of performance of a program's performance measure;

15 ~~[L.]~~ M. "program cost" is the product of the total
16 number of program units to which a school district is entitled
17 multiplied by the dollar value per program unit established by
18 the legislature;

19 ~~[M.]~~ N. "program element" is that component of a
20 public school system to which a cost differential factor is
21 applied to determine the number of program units to which a
22 school district is entitled, including MEM, full-time-
23 equivalent MEM, teacher, classroom or public school;

24 ~~[N.]~~ O. "program unit" is the product of the
25 program element multiplied by the applicable cost differential

1 factor;

2 ~~[P.]~~ P. "public money" or "public funds" means all
3 money from public or private sources received by a school
4 district or state-chartered charter school or officer or
5 employee of a school district or state-chartered charter school
6 for public use;

7 ~~[P.]~~ Q. "qualified student" means a public school
8 student who:

9 (1) has not graduated from high school;

10 (2) is regularly enrolled in one-half or more
11 of the minimum course requirements approved by the department
12 for public school students; and

13 (3) in terms of age and other criteria:

14 (a) is at least five years of age prior
15 to 12:01 a.m. on September 1 of the school year;

16 (b) is at least three years of age at
17 any time during the school year and is receiving special
18 education services pursuant to rules of the department;

19 (c) except as provided in Subparagraph

20 (d) of this paragraph, has not reached the student's twenty-
21 second birthday on the first day of the school year; or

22 (d) has reached the student's twenty-
23 second birthday on the first day of the 2019-2020 school year,
24 is counted in a school district's or charter school's MEM on
25 the third reporting date of the 2018-2019 school year, has been

.233731.3

1 continuously enrolled in the same public school since that
2 reporting date and is still enrolled in that school;

3 [Q-] R. "rural population rate" means that
4 proportion of the total population within a school district's
5 geographic boundaries that lives in a rural area and not in an
6 urban area as defined by the United States census bureau;

7 [R-] S. "staffing cost multiplier" means the
8 teacher cost index; and

9 [S-] T. "state superintendent" or "secretary" means
10 the secretary of public education or the secretary's designee."

11 SECTION 2. Section 22-8-12.1 NMSA 1978 (being Laws 1978,
12 Chapter 128, Section 5, as amended) is amended to read:

13 "22-8-12.1. MEMBERSHIP PROJECTIONS AND BUDGET
14 REQUESTS.--

15 A. On or before October 15 of each year, each local
16 school board or governing body of a state-chartered charter
17 school shall submit [~~annually, on or before October 15~~] to the
18 department:

19 (1) an estimate for the succeeding fiscal year
20 of:

21 (a) the membership of qualified students
22 to be enrolled in the basic program;

23 (b) the membership of students to be
24 enrolled as distance learning students;

25 [~~(b)~~] (c) the full-time-equivalent

1 membership of students to be enrolled in approved early
2 childhood education programs; and

3 ~~[(e)]~~ (d) the membership of students to
4 be enrolled in approved special education programs;

5 (2) all other information necessary to
6 calculate program costs; and

7 (3) any other information related to the
8 financial needs of the school district or state-chartered
9 charter school as may be requested by the department.

10 B. ~~[All]~~ The information ~~[requested]~~ submitted
11 pursuant to Subsection A of this section shall be submitted on
12 forms prescribed and furnished by the department and ~~[shall~~
13 ~~apply]~~ in accordance with the department's rules and
14 procedures.

15 C. The department shall:

16 (1) review the financial needs of each school
17 district or state-chartered charter school for the succeeding
18 fiscal year;

19 (2) ~~[submit annually]~~ on or before September 1
20 of each year, submit to the department of finance and
21 administration, the legislative finance committee and the
22 legislative education study committee the department's
23 recommendations ~~[of the department]~~ for:

24 (a) amendments to the public school
25 finance formula;

.233731.3

1 (b) appropriations for the succeeding
2 fiscal year to the public school fund; and

3 (c) appropriations for the succeeding
4 fiscal year for pupil transportation and instructional
5 materials; and

6 (3) [~~submit annually~~] on or before November 30
7 of each year, submit to the department of finance and
8 administration, the legislative finance committee and the
9 legislative education study committee any adjustments to the
10 department's recommendations [~~of the department~~] for
11 appropriations related to additional enrollment growth program
12 units pursuant to Section 22-8-23.1 NMSA 1978."

13 SECTION 3. Section 22-8-13 NMSA 1978 (being Laws 1974,
14 Chapter 8, Section 3, as amended) is amended to read:

15 "22-8-13. REPORTS.--

16 A. Each public school shall keep accurate records
17 concerning membership in the public school.

18 B. The dates for which MEM is reported are as
19 follows:

20 (1) the first reporting date is the second
21 Wednesday in October of each year;

22 (2) the second reporting date is December 1 or
23 the first working day in December of each year; and

24 (3) the third reporting date is the second
25 Wednesday in February of each year.

1 C. The superintendent of each school district or
2 head administrator of [~~æ~~] each state-chartered charter school
3 shall maintain the following reports for each reporting period:

4 (1) the basic program MEM by grade in each
5 public school;

6 (2) the early childhood education MEM;

7 (3) the special education MEM in each public
8 school in class C and class D programs as defined in Section
9 22-8-21 NMSA 1978;

10 (4) the number of class A and class B programs
11 as defined in Section 22-8-21 NMSA 1978; [~~and~~]

12 (5) the full-time-equivalent MEM for bilingual
13 multicultural education programs; and

14 (6) the distance-learning-student MEM by grade
15 in each public school.

16 D. The superintendent of each school district and
17 the head administrator of each state-chartered charter school
18 shall furnish all reports required by law or the department to
19 the department [~~within ten working days of~~] on or before the
20 close of each reporting period or as otherwise requested by the
21 department. Failure of the department to approve timely
22 submissions shall not cause a school district or charter school
23 to be found noncompliant with the requirements of this section.

24 E. For purposes of this section, "working day"
25 means every calendar day excluding Saturdays, Sundays and legal

.233731.3

1 holidays.

2 ~~[E. All]~~ F. The information required pursuant to
3 this section shall be ~~[on forms]~~ submitted in a manner
4 prescribed ~~[and furnished]~~ by the department. A copy of any
5 report made pursuant to this section shall be kept as a
6 permanent record of the school district or charter school and
7 shall be subject to inspection and audit at any reasonable
8 time.

9 ~~[F.]~~ G. The department may withhold up to one
10 hundred percent of allotments of funds to any school district
11 or state-chartered charter school where the superintendent or
12 head administrator has failed to comply with the requirements
13 of this section. The withholding may continue until the
14 superintendent or head administrator complies with and agrees
15 to continue complying with the requirements of this section.

16 ~~[G.]~~ H. The provisions of this section may be
17 modified or suspended by the department for any school
18 district, ~~[or]~~ school or state-chartered charter school
19 operating under the Variable School Calendar Act. The
20 department shall require MEM reports consistent with the
21 calendar of operations of such school district, ~~[or]~~ school or
22 state-chartered charter school and shall calculate an
23 equivalent MEM for use in projecting school district or charter
24 school revenue."

25 **SECTION 4.** Section 22-8-23 NMSA 1978 (being Laws 1975,
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1 Chapter 119, Section 1, as amended by Laws 2019, Chapter 206,
 2 Section 14 and by Laws 2019, Chapter 207, Section 14) is
 3 amended to read:

4 "22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

5 A. An approved public school [~~including a charter~~
 6 ~~school~~] with a MEM of fewer than four hundred, including early
 7 childhood education full-time-equivalent MEM but excluding
 8 membership in class C and class D programs and excluding full-
 9 time-equivalent membership in three- and four-year-old
 10 developmentally disabled programs, that is geographically
 11 located in a school district with fewer than two thousand MEM,
 12 is eligible for additional program units. Separate schools
 13 established to provide special programs, including [~~but not~~
 14 ~~limited to~~] vocational and alternative education, shall not be
 15 classified as public schools for purposes of generating size
 16 adjustment program units. The number of additional program
 17 units to which a school district or charter school is entitled
 18 under this subsection is the sum of elementary-junior high
 19 units and senior high units computed in the following manner:

20 Elementary-Junior High Units

21 200 - MEM

22 _____ x 1.0 x MEM = Units

23 200

24 where MEM is equal to the membership of an approved elementary
 25 or junior high school, including early childhood education

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1 full-time-equivalent membership but excluding membership in
2 class C and class D programs and excluding full-time-equivalent
3 membership in three- and four-year-old developmentally disabled
4 programs;

5 Senior High Units

6 200 - MEM

7 _____ x 2.0 x MEM = Units

8 200

9 or,

10 Senior High Units

11 400 - MEM

12 _____ x 1.6 x MEM = Units

13 400

14 whichever calculation for senior high units is higher, where
15 MEM is equal to the membership of an approved senior high
16 school, excluding membership in class C and class D programs.

17 B. An approved public school with a MEM of fewer
18 than four hundred, including early childhood education full-
19 time-equivalent MEM but excluding MEM in class C and class D
20 programs and excluding full-time-equivalent MEM in three- and
21 four-year-old developmentally disabled programs, geographically
22 located in a school district with two thousand MEM or more is
23 eligible for additional program units computed in the following
24 manner:

25 (1) for fiscal year 2020, eighty percent of

.233731.3

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1 the sum of elementary-junior high units and senior high units
 2 as prescribed in Subsection A of this section;

3 (2) for fiscal year 2021, sixty percent of the
 4 sum of elementary-junior high units and senior high units as
 5 prescribed in Subsection A of this section;

6 (3) for fiscal year 2022, forty percent of the
 7 sum of elementary-junior high units and senior high units as
 8 prescribed in Subsection A of this section;

9 (4) for fiscal year 2023, twenty percent of
 10 the sum of elementary-junior high units and senior high units
 11 as prescribed in Subsection A of this section; and

12 (5) for fiscal year 2024 and subsequent fiscal
 13 years, no elementary-junior high units and senior high units as
 14 prescribed in Subsection A of this section.

15 C. A school district with total MEM of fewer than
 16 four thousand, including early childhood education full-time-
 17 equivalent MEM, is eligible for additional program units. The
 18 number of additional program units to which a school district
 19 is entitled under this subsection is the number of district
 20 units computed in the following manner:

$$\begin{array}{r}
 \text{District Units} \\
 4,000 - \text{MEM} \\
 \hline
 4,000
 \end{array}
 \times 0.15 \times \text{MEM} = \text{Units}$$

24 where MEM is equal to the total district membership,

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1 including early childhood education full-time-equivalent
2 membership.

3 D. A school district [~~as defined in Subsection R of~~
4 ~~Section 22-1-2 NMSA 1978~~] with a MEM of fewer than two hundred,
5 including early childhood education full-time-equivalent MEM,
6 is eligible for additional program units if the department
7 certifies that the school district has implemented practices to
8 reduce scale inefficiencies, including shared service
9 agreements with regional education cooperatives or other school
10 districts for noninstructional functions and distance
11 education. The numbers of additional program units to which a
12 school district is entitled under this subsection is the number
13 of units computed in the following manner:

$$200 - MEM = \text{Units}$$

14 where MEM is equal to the total district MEM, including early
15 childhood education full-time-equivalent MEM.

16 E. A school district with a rural population rate
17 greater than forty percent or a charter school initially
18 chartered before July 1, 2018 and geographically located in a
19 school district with a rural population rate greater than forty
20 percent is eligible for additional program units. The number
21 of additional program units to which a school district or
22 charter school is entitled pursuant to this subsection is
23 determined by multiplying the full-time-equivalent MEM by the
24 rural population rate and the cost differential factor of [0.03
25

.233731.3

1 ~~for fiscal year 2020, 0.06 for fiscal year 2021, 0.09 for~~
 2 ~~fiscal year 2022, 0.12 for fiscal year 2023 and 0.15 for fiscal~~
 3 ~~year 2024 and subsequent fiscal years] 0.15; provided that the~~
 4 ~~full-time-equivalent MEM used for this determination does not~~
 5 ~~include membership derived from distance learning students."~~

6 SECTION 5. Section 22-30-1 NMSA 1978 (being Laws 2007,
 7 Chapter 292, Section 1 and Laws 2007, Chapter 293, Section 1)
 8 is amended to read:

9 "22-30-1. SHORT TITLE.--~~[Sections 1 through 7 of this~~
 10 ~~act] Chapter 22, Article 30 NMSA 1978 may be cited as the~~
 11 ~~["Statewide Cyber Academy Act"] "Distance Learning Act"."~~

12 SECTION 6. Section 22-30-2 NMSA 1978 (being Laws 2007,
 13 Chapter 292, Section 2 and Laws 2007, Chapter 293, Section 2)
 14 is amended to read:

15 "22-30-2. DEFINITIONS.--As used in the ~~[Statewide Cyber~~
 16 ~~Academy Act]:~~

17 A. ~~"course provider" means a person that supplies~~
 18 ~~educational course content for distance learning courses;~~

19 B. ~~"distance learning course" means an educational~~
 20 ~~course that is taught where the student and primary instructor~~
 21 ~~are separated by time or space and linked by technology;~~

22 C. ~~"distance learning student" means a qualified~~
 23 ~~student as defined in Section 22-8-2 NMSA 1978 who is enrolled~~
 24 ~~in one or more distance learning courses for credit;~~

25 D. ~~"learning management system" means a software~~

.233731.3

1 ~~application that facilitates online instruction and interaction~~
2 ~~between teachers and distance learning students;~~

3 ~~E. "local distance learning site" means a school~~
4 ~~district or charter school that offers and grants credit for~~
5 ~~distance learning courses to distance learning students~~
6 ~~enrolled in the school district or charter school;~~

7 ~~F. "primary enrolling district" means the school~~
8 ~~district or charter school in which the distance learning~~
9 ~~student is enrolled;~~

10 ~~G. "regional host" means an educational~~
11 ~~institution, school district or other entity selected by the~~
12 ~~statewide cyber academy to coordinate the delivery of distance~~
13 ~~learning courses within a broad geographic region of the state;~~

14 ~~H. "service center" means the single central~~
15 ~~facility where administrative and management functions of the~~
16 ~~statewide cyber academy are physically located in New Mexico;~~
17 ~~and~~

18 ~~I. "statewide cyber academy" means the department's~~
19 ~~collaborative program that offers distance learning courses to~~
20 ~~all local distance learning sites] Distance Learning Act:~~

21 ~~A. "distance learning course" means an educational~~
22 ~~course provided through virtual instruction;~~

23 ~~B. "distance learning student" means a qualified~~
24 ~~student in accordance with the provisions of the Public School~~
25 ~~Finance Act who is enrolled in a full-time distance learning~~

1 program; and

2 C. "full-time distance learning program" means a
 3 public school instructional program in which students receive
 4 virtual instruction and are not required to attend school at a
 5 school building."

6 SECTION 7. Section 22-30-3 NMSA 1978 (being Laws 2007,
 7 Chapter 292, Section 3 and Laws 2007, Chapter 293, Section 3)
 8 is amended to read:

9 "22-30-3. STATEWIDE CYBER ACADEMY CREATED.--The
 10 "statewide cyber academy" [program] is created as a program in
 11 the department. [~~The statewide cyber academy is a~~
 12 ~~collaborative program among the department, the higher~~
 13 ~~education department, telecommunications networks and~~
 14 ~~representatives of other state agencies engaged in providing~~
 15 ~~distance education.~~] The statewide cyber academy [shall] may
 16 provide distance learning courses for [grades six through
 17 twelve] sixth grade through twelfth grade and professional
 18 development for teachers, instructional support providers and
 19 school administrators."

20 SECTION 8. Section 22-30-4 NMSA 1978 (being Laws 2007,
 21 Chapter 292, Section 4 and Laws 2007, Chapter 293, Section 4)
 22 is amended to read:

23 "22-30-4. DEPARTMENT RULES.--The department shall
 24 promulgate rules to carry out the provisions of the [~~Statewide~~
 25 ~~Cyber Academy~~] Distance Learning Act."

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1 SECTION 9. Section 22-30-5 NMSA 1978 (being Laws 2007,
2 Chapter 292, Section 5 and Laws 2007, Chapter 293, Section 5)
3 is amended to read:

4 "22-30-5. [~~STATEWIDE CYBER ACADEMY~~] FULL-TIME DISTANCE
5 LEARNING PROGRAM--DUTIES.--~~[The statewide cyber academy shall:~~

6 A. ~~establish a distance learning course delivery~~
7 ~~system that is efficient and cost-effective and that uses a~~
8 ~~statewide service center and regional hosts to provide approved~~
9 ~~distance learning courses;~~

10 B. ~~select regional hosts based on pre-existing~~
11 ~~experience and capacity to facilitate the delivery of distance~~
12 ~~educational programs, including public post-secondary~~
13 ~~educational institutions, regional education cooperatives and~~
14 ~~school districts;~~

15 C. ~~provide technical and program support to~~
16 ~~regional hosts and local distance learning sites;~~

17 D. ~~ensure that all distance learning courses~~
18 ~~offered by course providers are taught by highly qualified~~
19 ~~teachers or members of the faculty of accredited post-secondary~~
20 ~~educational institutions and meet state academic content and~~
21 ~~performance standards;~~

22 E. ~~provide for reasonable and equitable means to~~
23 ~~allocate the costs of distance learning courses among the~~
24 ~~statewide cyber academy, the course providers and the school~~
25 ~~districts whose students are enrolled in a distance learning~~

.233731.3

1 course;

2 F. ~~give first priority to the delivery of distance~~
3 ~~learning courses for credit to distance learning students who~~
4 ~~have the greatest need because of geographic location or~~
5 ~~circumstances in which a school district may have difficulty~~
6 ~~delivering essential course instruction due to financial~~
7 ~~restraints or lack of highly qualified teachers; provided that~~
8 ~~in fiscal year 2008 the statewide cyber academy shall include,~~
9 ~~among those distance learning students who are determined to~~
10 ~~have the greatest need, distance learning students served by~~
11 ~~school districts that are members of regional education~~
12 ~~cooperatives three, eight and nine;~~

13 G. ~~ensure that the statewide cyber academy's~~
14 ~~learning management system is compatible with school district~~
15 ~~and department data collection, analysis and reporting systems;~~

16 H. ~~ensure that all deficiencies in the~~
17 ~~infrastructure, hardware and software in the statewide cyber~~
18 ~~academy are corrected in accordance with educational technology~~
19 ~~adequacy standards pursuant to Section 22-15A-11 NMSA 1978;~~

20 I. ~~comply with all rules governing privacy and~~
21 ~~confidentiality of student records for secure record storage;~~

22 J. ~~offer distance learning courses to distance~~
23 ~~learning students;~~

24 K. ~~offer professional development via distance~~
25 ~~learning, using a learning management system;~~

.233731.3

1 ~~L. assist the council on technology in education in~~
2 ~~its development of the statewide plan required by Section~~
3 ~~22-15A-7 NMSA 1978, including a statewide cyber academy plan~~
4 ~~that addresses short- and long-range goals;~~

5 ~~M. define and coordinate the roles and~~
6 ~~responsibilities of the collaborating agencies to establish a~~
7 ~~distance learning governance and accountability framework; and~~

8 ~~N. conduct an annual evaluation and provide an~~
9 ~~annual report to the department and the legislature that~~
10 ~~includes a detailed report of expenditures; a description of~~
11 ~~services provided, including the number and location of local~~
12 ~~distance learning sites, public schools and distance learning~~
13 ~~students served; the courses offered; the credits generated by~~
14 ~~local distance learning sites; and student and teacher~~
15 ~~accountability reporting data.]~~

16 A. A school district or charter school that offers
17 a full-time distance learning program shall:

18 (1) administer the program in compliance with
19 the Public School Code, including Section 22-2-8.1 NMSA 1978
20 regarding required instructional hours and Section 22-10A-20
21 NMSA 1978 regarding class load and teaching load limits;

22 (2) administer the program in compliance with
23 state and federal law regarding student privacy, student record
24 confidentiality and secure student record storage;

25 (3) only provide distance learning courses

1 that are taught by licensed teachers or faculty members of
 2 accredited post-secondary educational institutions and that
 3 meet the department's academic content and performance
 4 standards;

5 (4) on or before October 15 of each year,
 6 notify the department as to the number of students enrolled in
 7 the program and the grade level of the enrolled students; and

8 (5) maintain records of the district's or
 9 charter school's expenditures related to the program and
 10 furnish the records to the department at the department's
 11 request and in the manner prescribed by the department.

12 B. A school district or charter school that
 13 operates a full-time distance learning program shall not expand
 14 the program to an additional grade level unless the school
 15 district or charter school certifies to the department that the
 16 program has sufficient courses for a full instructional program
 17 for the additional grade level."

18 SECTION 10. Section 22-30-6 NMSA 1978 (being Laws 2007,
 19 Chapter 292, Section 6 and Laws 2007, Chapter 293, Section 6)
 20 is amended to read:

21 "22-30-6. DISTANCE LEARNING STUDENTS--ENROLLMENT.--

22 ~~[A. A student must be enrolled in a public school~~
 23 ~~or a state-supported school and must have the permission of the~~
 24 ~~student's local distance education learning site to enroll in a~~
 25 ~~distance learning course. A distance learning student shall~~

.233731.3

1 ~~only be counted in the student's primary enrolling district for~~
2 ~~the purpose of determining the membership used to calculate a~~
3 ~~school district's state equalization guarantee. A student~~
4 ~~shall have only one primary enrolling district.~~

5 ~~B. A home school student may participate in the~~
6 ~~statewide cyber academy by enrolling for one-half or more of~~
7 ~~the minimum course requirements approved by the department for~~
8 ~~public school students in the school district in which the~~
9 ~~student resides; or, if the student is enrolled for less than~~
10 ~~one-half of the minimum course requirements, the student may~~
11 ~~participate in the statewide cyber academy by paying not more~~
12 ~~than thirty-five percent of the current unit value per~~
13 ~~curricular unit.~~

14 ~~C. A student enrolled in a nonpublic school may~~
15 ~~participate in the statewide cyber academy if the school in~~
16 ~~which the student is enrolled enters into a contract with the~~
17 ~~school district in which the nonpublic school is located.~~

18 ~~D. A student who is detained in or committed to a~~
19 ~~juvenile detention facility or a facility for the long-term~~
20 ~~care and rehabilitation of delinquent children may participate~~
21 ~~in the statewide cyber academy if the facility in which the~~
22 ~~student is enrolled enters into a contract with the school~~
23 ~~district in which the facility is located.]~~

24 A. A school district shall not require a student to
25 enroll in a full-time distance learning program and shall not

1 enroll more than ten percent of the district's MEM in a full-
 2 time distance learning program.

3 B. A charter school shall not require a student to
 4 enroll in a full-time distance learning program and shall not
 5 enroll more than ten percent of the charter school's MEM in a
 6 full-time distance learning program unless authorized by the
 7 charter school's charter or current charter contract.

8 C. The provisions of Subsections A and B of this
 9 section do not apply to a school district or charter school if
 10 temporary enrollment of the district's or charter school's
 11 students in a full-time distance learning program is necessary
 12 or appropriate during a public health emergency declared
 13 pursuant to the Public Health Emergency Response Act."

14 SECTION 11. Section 22-30-7 NMSA 1978 (being Laws 2003,
 15 Chapter 162, Section 2) is amended to read:

16 "22-30-7. DISTANCE LEARNING AND COMPUTER-BASED COURSES.--
 17 [~~Public schools that offer distance learning and computer-based~~
 18 ~~courses of study shall provide accompanying electronic formats~~
 19 ~~that are usable by a person with a disability using assistive~~
 20 ~~technology, and those formats shall be based on the American~~
 21 ~~standard code for information interchange, hypertext markup~~
 22 ~~language and extensible markup language] A school district or
 23 charter school that has a full-time distance learning program
 24 or offers distance learning courses or other computer-based
 25 courses of study shall provide accompanying instructional~~

.233731.3

1 materials or other materials in an electronic format usable by
2 a person with a disability or compatible with the person's
3 assistive technology."

4 SECTION 12. A new section of the Distance Learning Act is
5 enacted to read:

6 "[NEW MATERIAL] DEPARTMENT APPROVAL OF PROGRAMS.--

7 A. A school district or charter school may
8 establish a full-time distance learning program only if the
9 program is approved by the department.

10 B. Beginning in the 2026-2027 school year, a school
11 district or charter school seeking to establish a new full-time
12 distance learning program shall submit an application to the
13 department on or before October 15 of the school year
14 immediately preceding the school year in which the district or
15 charter school will begin operating the program.

16 C. The department shall approve or deny an
17 application to establish a full-time distance learning program
18 on or before January 30 of the school year in which the
19 application was submitted.

20 D. The department may approve a school district's
21 or charter school's full-time distance learning program if the
22 department determines that the program is likely to improve
23 learning opportunities for students and that the school
24 district or charter school demonstrates the capacity of the
25 program to comply with all provisions of the Public School

.233731.3

1 Code. If the school district's or charter school's program
2 will be managed or operated by a contracted third party, the
3 department shall consider information about the third party's
4 track record or past performance if such information is
5 available.

6 E. The department's decision to deny an application
7 to establish a full-time distance learning program is final and
8 not subject to appeal.

9 F. The department shall review each approved full-
10 time distance learning program at least once every three to
11 five years to determine whether the program shall maintain the
12 department's approval.

13 G. The Distance Learning Act shall not be construed
14 to prohibit a charter or charter contract for a charter school
15 that provides only virtual or online educational programming.

16 H. The department shall adopt rules for uniform
17 requirements for full-time distance learning programs and for a
18 uniform process for school districts or charter schools to
19 apply to establish those programs."

20 **SECTION 13.** A new section of the Distance Learning Act is
21 enacted to read:

22 "[NEW MATERIAL] RESIDENCY REQUIREMENTS.--Beginning July 1,
23 2027, a school district shall not enroll a student in a
24 full-time distance learning program if the student does not
25 reside in the school district or in an adjacent school

.233731.3

1 district; provided that the department may waive this
2 requirement if the department determines that a waiver is in
3 the student's best interest."

4 SECTION 14. TEMPORARY PROVISIONS.--

5 A. For the purposes of the Public School Finance
6 Act in fiscal year 2026, a school district with MEM over eight
7 thousand shall calculate the total number of program units to
8 which the school district is entitled by using the school
9 district's MEM on the first reporting date of fiscal year 2026
10 if that MEM is at least ten percent lower than the school
11 district's MEM on the first reporting date of fiscal year 2025.

12 B. For the purposes of the Public School Finance
13 Act in fiscal years 2026 and 2027, a school district is not
14 eligible for enrollment growth program units pursuant to
15 Section 22-8-23.1 NMSA 1978 for students enrolled in a full-
16 time distance learning program.

17 C. For the purposes of the Public School Finance
18 Act in fiscal year 2027, a school district's MEM shall not
19 include students who were enrolled in a full-time distance
20 learning program in fiscal year 2026; provided that this
21 section only applies to a school district with a MEM enrolled
22 in full-time distance learning programs that accounts for more
23 than seventy percent of the district's total MEM.

24 D. For fiscal year 2027, a school district or
25 charter school shall not reorganize to create a school

.233731.3

1 district, school or school program that has a majority of
2 students enrolled in a full-time distance learning program.

3 E. The legislative education study committee, in
4 collaboration with the legislative finance committee and the
5 public education department, shall conduct a comprehensive
6 study on virtual instruction in the state. The study shall
7 evaluate the status of full-time distance learning programs or
8 similar programs and assess the outcomes of students enrolled
9 in the programs, with particular focus on those students who
10 are in kindergarten through fifth grade, the cost of operating
11 the programs and potential legislative action regarding full-
12 time distance learning programs. On or before November 1,
13 2026, the legislative education study committee shall submit a
14 final report on the comprehensive study to the governor, the
15 public education department and the legislative finance
16 committee.

17 F. Except as provided in Subsection G of this
18 section, if a school district or charter school established or
19 operated a full-time distance learning program before the
20 effective date of this act, the public education department
21 shall authorize the program to continue operating through June
22 30, 2028 as the program existed. Sections 10 through 13 of
23 this act shall not apply to the school district's or charter
24 school's full-time distance learning program until July 1,
25 2028.

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