

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

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 EVALUATION OF DISTANCE LEARNING PROGRAMS; MAKING  
6       CONFORMING AMENDMENTS; ENACTING TEMPORARY PROVISIONS RELATING  
7       TO THE PUBLIC SCHOOL FINANCE ACT; ENACTING TEMPORARY PROVISIONS  
8       RELATING TO THE DISTANCE LEARNING ACT; REPEALING SECTION  
9       22-30-8 NMSA 1978 (BEING LAWS 2007, CHAPTER 292, SECTION 7 AND  
10      LAWS 2007, CHAPTER 293, SECTION 7); DECLARING AN EMERGENCY.

11  
12      BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

15            "22-8-2. DEFINITIONS.--As used in the Public School  
16      Finance Act:

17            A. "ADM" or "MEM" means membership;  
18            B. "membership" means the total enrollment of  
19      qualified students on the current roll of a class or school on  
20      a specified day. The current roll is established by the  
21      addition of original entries and reentries minus withdrawals.  
22      Withdrawals of students, in addition to students formally  
23      withdrawn from the public school, include students absent from  
24      the public school for as many as ten consecutive school days;  
25      provided that withdrawals do not include students who are in

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1 need of intervention or who are chronically or excessively  
2 absent;

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

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

11 E. "department" or "division" means the public  
12 education department;

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

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

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

23 [H.] I. "full-time-equivalent ADM" or "full-time-  
24 equivalent MEM" is that membership calculated by applying to  
25 the MEM in an approved public school program the ratio of the

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1       number of hours per school day devoted to the program to six  
2       hours or the number of hours per school week devoted to the  
3       program to thirty hours;

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

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

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

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

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

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

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

5 [P.] Q. "qualified student" means a public school  
6 student who:

7 (1) has not graduated from high school;  
8 (2) is regularly enrolled in one-half or more  
9 of the minimum course requirements approved by the department  
10 for public school students; and

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

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

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

17 (c) except as provided in Subparagraph  
18 (d) of this paragraph, has not reached the student's twenty-  
19 second birthday on the first day of the school year; or

20 (d) has reached the student's twenty-  
21 second birthday on the first day of the 2019-2020 school year,  
22 is counted in a school district's or charter school's MEM on  
23 the third reporting date of the 2018-2019 school year, has been  
24 continuously enrolled in the same public school since that  
25 reporting date and is still enrolled in that school;

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

5                   [R.] S. "staffing cost multiplier" means the  
6 teacher cost index; and

7                   [S.] T. "state superintendent" or "secretary" means  
8 the secretary of public education or the secretary's designee."

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

11                   "22-8-12.1. MEMBERSHIP PROJECTIONS AND BUDGET  
12 REQUESTS.--

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

17                   (1) an estimate for the succeeding fiscal year  
18 of:

19                   (a) the membership of qualified students  
20 to be enrolled in the basic program;

21                   (b) the membership of students to be  
22 enrolled as distance learning students;

23                   [+b+] (c) the full-time-equivalent  
24 membership of students to be enrolled in approved early  
25 childhood education programs; and

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

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

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

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

C. The department shall:

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

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

(a) amendments to the public school finance formula;

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

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

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

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

"22-8-13. REPORTS.--

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

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

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

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

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

C. The superintendent of each school district or head administrator of [a] each state-chartered charter school

1 shall maintain the following reports for each reporting period:

2 (1) the basic program MEM by grade in each  
3 public school;

4 (2) the early childhood education MEM;  
5 (3) the special education MEM in each public  
6 school in class C and class D programs as defined in Section  
7 22-8-21 NMSA 1978;

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

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

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

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

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

25 [E. ~~All~~] F. The information required pursuant to

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

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

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

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

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1 amended to read:

2 "22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

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

18                   Elementary-Junior High Units

19                   200 - MEM

20                   \_\_\_\_\_ x 1.0 x MEM = Units

21                   200

22 where MEM is equal to the membership of an approved elementary  
23 or junior high school, including early childhood education  
24 full-time-equivalent membership but excluding membership in  
25 class C and class D programs and excluding full-time-equivalent

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membership in three- and four-year-old developmentally disabled programs;

## Senior High Units

200 - MEM

x 2.0 x MEM = Units

200

or,

## Senior High Units

400 - MEM

x 1.6 x MEM = Units

400

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

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

(1) for fiscal year 2020, eighty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

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

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

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

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

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

## District Units

4,000 - MEM

x 0.15 x MEM = Units

4,000

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

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

12                    $200 - \text{MEM} = \text{Units}$

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

15                   E. A school district with a rural population rate  
16 greater than forty percent or a charter school initially  
17 chartered before July 1, 2018 and geographically located in a  
18 school district with a rural population rate greater than forty  
19 percent is eligible for additional program units. The number  
20 of additional program units to which a school district or  
21 charter school is entitled pursuant to this subsection is  
22 determined by multiplying the full-time-equivalent MEM by the  
23 rural population rate and the cost differential factor of ~~[0.03~~  
24 ~~for fiscal year 2020, 0.06 for fiscal year 2021, 0.09 for~~  
25 ~~fiscal year 2022, 0.12 for fiscal year 2023 and 0.15 for fiscal~~

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1 ~~year 2024 and subsequent fiscal years]~~ 0.15; provided that the  
2 full-time-equivalent MEM used for this determination does not  
3 include membership derived from distance learning students."

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

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

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

13 "22-30-2. DEFINITIONS.--As used in the [Statewide Cyber  
14 Academy Act]:

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

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

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

23 D. ~~"learning management system"~~ means a software  
24 ~~application that facilitates online instruction and interaction~~  
25 ~~between teachers and distance learning students;~~

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

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

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

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

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

19                  A. "distance learning course" means an educational  
20 course provided through virtual instruction;

21                  B. "distance learning student" means a qualified  
22 student in accordance with the provisions of the Public School  
23 Finance Act who is enrolled in a full-time distance learning  
24 program; and

25                  C. "full-time distance learning program" means a

1       public school instructional program in which students receive  
2       virtual instruction and are not required to attend school at a  
3       school building."

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

7       "22-30-3. STATEWIDE CYBER ACADEMY CREATED.--The  
8       "statewide cyber academy" [program] is created as a program in  
9       the department. [The statewide cyber academy is a  
10       collaborative program among the department, the higher  
11       education department, telecommunications networks and  
12       representatives of other state agencies engaged in providing  
13       distance education.] The statewide cyber academy [shall] may  
14       provide distance learning courses for [grades six through  
15       twelve] sixth grade through twelfth grade and professional  
16       development for teachers, instructional support providers and  
17       school administrators."

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

21       "22-30-4. DEPARTMENT RULES.--The department shall  
22       promulgate rules to carry out the provisions of the [Statewide  
23       Cyber Academy] Distance Learning Act."

24       SECTION 9. Section 22-30-5 NMSA 1978 (being Laws 2007,  
25       Chapter 292, Section 5 and Laws 2007, Chapter 293, Section 5)

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1 is amended to read:

2 "22-30-5. [STATEWIDE CYBER ACADEMY] FULL-TIME DISTANCE  
3 LEARNING PROGRAM--DUTIES.--[The statewide cyber academy shall:

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

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

13 C. provide technical and program support to  
14 regional hosts and local distance learning sites;

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

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

25 F. give first priority to the delivery of distance

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

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

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

18 I. comply with all rules governing privacy and  
19 confidentiality of student records for secure record storage;

20 J. offer distance learning courses to distance  
21 learning students;

22 K. offer professional development via distance  
23 learning, using a learning management system;

24 L. assist the council on technology in education in  
25 its development of the statewide plan required by Section

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1 22-15A-7 NMSA 1978, including a statewide cyber academy plan  
2 that addresses short- and long-range goals;

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

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

14 A school district or charter school that offers  
15 a full-time distance learning program shall:

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

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

23 (3) only provide distance learning courses  
24 that are taught by licensed teachers or faculty members of  
25 accredited post-secondary educational institutions and that

1 meet the department's academic content and performance  
2 standards;

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

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

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

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

19 "22-30-6. DISTANCE LEARNING STUDENTS--ENROLLMENT.--

20 [A. ~~A student must be enrolled in a public school~~  
21 ~~or a state-supported school and must have the permission of the~~  
22 ~~student's local distance education learning site to enroll in a~~  
23 ~~distance learning course. A distance learning student shall~~  
24 ~~only be counted in the student's primary enrolling district for~~  
25 ~~the purpose of determining the membership used to calculate a~~

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1 school district's state equalization guarantee. A student  
2 shall have only one primary enrolling district.

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

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

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

22 A. A school district shall not require a student to  
23 enroll in a full-time distance learning program.

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

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

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

9                   "22-30-7. DISTANCE LEARNING AND COMPUTER-BASED COURSES.--  
 10                  [~~Public schools that offer distance learning and computer-based~~  
 11                  ~~courses of study shall provide accompanying electronic formats~~  
 12                  ~~that are usable by a person with a disability using assistive~~  
 13                  ~~technology, and those formats shall be based on the American~~  
 14                  ~~standard code for information interchange, hypertext markup~~  
 15                  ~~language and extensible markup language]~~ A school district or  
 16                  charter school that has a full-time distance learning program  
 17                  or offers distance learning courses or other computer-based  
 18                  courses of study shall provide accompanying instructional  
 19                  materials or other materials in an electronic format usable by  
 20                  a person with a disability or compatible with the person's  
 21                  assistive technology."

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

24                  "[NEW MATERIAL] DEPARTMENT EVALUATION OF PROGRAMS.--By the  
 25 end of the 2027-2028 school year and at least every five years

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1 thereafter, the department shall evaluate all full-time  
2 distance learning programs to certify that the programs are in  
3 compliance with the Public School Code and related rules,  
4 including provisions related to instructional hours, class load  
5 and teaching load limits. If the department determines that a  
6 full-time distance learning program was not in compliance  
7 during the period preceding the evaluation, the department may  
8 withhold up to one hundred percent of allotments of funding for  
9 distance learning students from the school district or  
10 state-chartered charter school that operates the full-time  
11 distance learning program until the local superintendent or  
12 head administrator submits, and the department approves, a plan  
13 by which the school district or state-chartered charter school  
14 will come into compliance with the Public School Code and  
15 related rules."

16 **SECTION 13. TEMPORARY PROVISIONS.--**

17 A. For the purposes of the Public School Finance  
18 Act in fiscal year 2026, a school district with MEM over eight  
19 thousand shall calculate the total number of program units to  
20 which the school district is entitled by using the school  
21 district's MEM on the first reporting date of fiscal year 2026  
22 if that MEM is at least ten percent lower than the school  
23 district's MEM on the first reporting date of fiscal year 2025.

24 B. For the purposes of the Public School Finance  
25 Act in fiscal years 2026 and 2027, a school district is not

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1       eligible for enrollment growth program units pursuant to  
2       Section 22-8-23.1 NMSA 1978 for students enrolled in a full-  
3       time distance learning program.

4               C. For fiscal year 2027, a school district or  
5       charter school shall not reorganize to create a school  
6       district, school or school program that has a majority of  
7       students enrolled in a full-time distance learning program.

8               D. The legislative education study committee, in  
9       collaboration with the legislative finance committee and the  
10       public education department, shall conduct a comprehensive  
11       study on virtual instruction in the state. The study shall  
12       evaluate the status of full-time distance learning programs or  
13       similar programs and assess the outcomes of students enrolled  
14       in the programs, with particular focus on those students who  
15       are in kindergarten through fifth grade, the cost of operating  
16       the programs and potential legislative action regarding full-  
17       time distance learning programs. On or before November 1,  
18       2026, the legislative education study committee shall submit a  
19       final report on the comprehensive study to the governor, the  
20       public education department and the legislative finance  
21       committee.

22               E. As used in this section, "full-time distance  
23       learning program" means a public school instructional program  
24       in which students receive virtual instruction and are not  
25       required to attend school at a school building.

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underscored material = new  
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**SECTION 14. REPEAL.--**Section 22-30-8 NMSA 1978 (being Laws 2007, Chapter 292, Section 7 and Laws 2007, Chapter 293, Section 7) is repealed.

**SECTION 15. EFFECTIVE DATE.--**The effective date of the provisions of Sections 1 through 12 and 14 of this act is July 1, 2026.

**SECTION 16. EMERGENCY.**--It is necessary for the public peace, health and safety that this act take effect immediately.

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underscored material = new  
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