

HOUSE BILL 253

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

INTRODUCED BY

Joy Garratt and William P. Soules and Susan K. Herrera

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

.233210.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
~~[bracketed material] = delete~~

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

.233210.1

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 enrolled in a full-time distance learning program in  
17 accordance with the Distance Learning Act;

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-

underscoring material = new  
~~[bracketed material] = delete~~

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 ~~[F.]~~ 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

.233210.1

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

.233210.1

underscored material = new  
[bracketed material] = delete

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

.233210.1

underscored material = new  
[bracketed material] = delete

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 ~~comply]~~ 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;

.233210.1

underscored material = new  
[bracketed material] = delete

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.

.233210.1

underscored material = new  
[bracketed material] = delete

1 C. The superintendent of each school district or  
2 head administrator of [a] 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

.233210.1

underscoring material = new  
[bracketed material] = delete

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,  
.233210.1

underscored material = new  
[bracketed material] = delete

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

.233210.1

underscored material = new  
[bracketed material] = delete

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  
.233210.1

underscored material = new  
[bracketed material] = delete

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:

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

25 where MEM is equal to the total district membership,

.233210.1

underscored material = new  
~~[bracketed material] = delete~~

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:

$$14 \quad 200 - \text{MEM} = \text{Units}$$

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

17 E. A school district with a rural population rate  
18 greater than forty percent or a charter school initially  
19 chartered before July 1, 2018 and geographically located in a  
20 school district with a rural population rate greater than forty  
21 percent is eligible for additional program units. The number  
22 of additional program units to which a school district or  
23 charter school is entitled pursuant to this subsection is  
24 determined by multiplying the full-time-equivalent MEM by the  
25 rural population rate and the cost differential factor of ~~[0.03~~  
.233210.1

underscoring material = new  
[bracketed material] = delete

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~~

.233210.1

underscored material = new  
[bracketed material] = delete

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~~

.233210.1

underscored material = new  
[bracketed material] = delete

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."

.233210.1

underscored material = new  
[bracketed material] = delete

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~~

.233210.1

underscored material = new  
[bracketed material] = delete

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;~~

.233210.1

underscored material = new  
[bracketed material] = delete

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

.233210.1

underscoring material = new  
~~[bracketed material] = delete~~

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~~

.233210.1

underscoring material = new  
[bracketed material] = delete

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:

25 (1) enroll a student in the district's full-

underscored material = new  
[bracketed material] = delete

1 time distance learning program if the student does not reside  
2 in the district; provided that the department may waive this  
3 requirement if the department determines that a waiver is in  
4 the student's best interest;

5 (2) require a student to enroll in a full-time  
6 distance learning program;

7 (3) enroll a student in a full-time distance  
8 learning program if the student is in kindergarten through  
9 fifth grade unless the student's enrollment in the program is  
10 required or otherwise authorized pursuant to the federal  
11 Individuals with Disabilities Education Act or Section 504 of  
12 the federal Rehabilitation Act of 1973; or

13 (4) enroll more than ten percent of the  
14 district's MEM in a full-time distance learning program.

15 B. A charter school shall not:

16 (1) require a student to enroll in a full-time  
17 distance learning program;

18 (2) enroll a student in a full-time distance  
19 learning program if the student is in kindergarten through  
20 fifth grade unless the student's enrollment in the program is:

21 (a) required or otherwise authorized  
22 pursuant to the federal Individuals with Disabilities Education  
23 Act or Section 504 of the federal Rehabilitation Act of 1973;  
24 or

25 (b) authorized pursuant to the charter

underscored material = new  
[bracketed material] = delete

1 school's charter or current charter contract; or

2 (3) enroll more than ten percent of the  
3 charter school's MEM in a full-time distance learning program  
4 unless authorized by the charter school's charter or current  
5 charter contract.

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

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

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

.233210.1

underscored material = new  
~~[bracketed material] = delete~~

1 assistive technology."

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

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

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

8 B. A school district or charter school seeking to  
9 establish a full-time distance learning program shall submit an  
10 application to the department on or before October 15 of the  
11 school year immediately preceding the school year in which the  
12 district or charter school will begin operating the program.

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

17 D. The department may approve a school district's  
18 or charter school's full-time distance learning program if the  
19 department determines that the program is likely to improve  
20 learning opportunities for students and that the school  
21 district or charter school demonstrates the capacity of the  
22 program to comply with all provisions of the Public School  
23 Code. If the school district's or charter school's program  
24 will be managed or operated by a contracted third party, the  
25 department shall consider information about the third party's

.233210.1

underscoring material = new  
~~[bracketed material] = delete~~

1 reputation, track record or past performance if such  
2 information is available.

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

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

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

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

17 SECTION 13. TEMPORARY PROVISIONS.--

18 A. On or before February 27, 2026, the secretary of  
19 public education may establish an adjusted unit value for use  
20 in accordance with the Public School Finance Act for the 2025-  
21 2026 school year. In establishing the adjusted unit value, the  
22 secretary shall consult with the department of finance and  
23 administration, the legislative education study committee and  
24 the legislative finance committee.

25 B. In fiscal years 2026 and 2027, a school district

.233210.1

underscored material = new  
~~[bracketed material] = delete~~

1 is not 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 operated by a contracted third  
4 party that is a for-profit corporation.

5 C. In fiscal year 2027, a school district's MEM for  
6 use in accordance with the Public School Finance Act shall not  
7 include students who were enrolled in a full-time distance  
8 learning program in fiscal year 2026 if the program was  
9 operated by a contracted third party that is a for-profit  
10 corporation; provided that this section only applies to a  
11 school district with a MEM enrolled in full-time distance  
12 learning programs that accounts for more than seventy percent  
13 of the district's total MEM.

14 D. For fiscal year 2027, a student shall not enroll  
15 in a school district's or charter school's full-time distance  
16 learning program if the student was not enrolled in the program  
17 in fiscal year 2026 unless:

18 (1) the student's enrollment is required or  
19 otherwise authorized by the federal Individuals with  
20 Disabilities Education Act or Section 504 of the federal  
21 Rehabilitation Act of 1973; or

22 (2) the program is operated by a charter  
23 school that has a charter or current charter contract that  
24 includes full-time distance learning programs.

25 E. For fiscal year 2027, a school district or

.233210.1

underscored material = new  
~~[bracketed material] = delete~~

1 charter school shall not reorganize to create a school  
2 district, school or school program that has a majority of  
3 students enrolled in a full-time distance learning program.  
4 For fiscal year 2027, a school district or the public education  
5 commission shall not authorize a new charter school that will  
6 have a majority of students enrolled in a full-time distance  
7 learning program.

8 F. A school district or charter school operating a  
9 full-time distance learning program as of the effective date of  
10 this act shall submit an application to establish a full-time  
11 distance learning program in accordance with the Distance  
12 Learning Act.

13 G. As used in this section, "full-time distance  
14 learning program" means a public school instructional program  
15 in which students receive virtual instruction and are not  
16 required to attend school at a school building.

17 SECTION 14. REPEAL.--Section 22-30-8 NMSA 1978 (being  
18 Laws 2007, Chapter 292, Section 7 and Laws 2007, Chapter 293,  
19 Section 7) is repealed.

20 SECTION 15. EFFECTIVE DATE.--The effective date of the  
21 provisions of Sections 1 through 12 and 14 of this act is July  
22 1, 2026.

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