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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 245

SHORT TITLE: Denial of enrollment to school

SPONSOR: Dow, A. Martinez, Montoya

LAST ORIGINAL
UPDATE: _____ **DATE:** 02/09/2026 **ANALYST:** Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Public Education Department

Regional Education Cooperatives

Agency or Agencies That Were Asked for Analysis but did not Respond

Albuquerque Public Schools

New Mexico Activities Association

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of House Bill 245

House Bill 245 (HB245) promotes and enables open enrollment in New Mexico schools, setting limits on a school’s ability to deny enrollment of a student if the school has the space for that student. It amends Section 22-1-4 NMSA 1978, which is entitled “Free public schools; exceptions; withdrawing and enrolling; open enrollment.

In Subsection C, it requires schools to not deny enrollment in a public school based on that person’s “race, ethnicity, sex, religion, disability, socioeconomic status or residential address.”

Subsection E is amended, restricting a school district’s ability to deal with denials in the

enrollment process. Subsection F states that any appeal is to be handled by the secretary of the Public Education Department (PED) and decided only on the basis of a given school’s lack of capacity to take a transfer student. Subsection G specifies the factors that can be taken into account as a school establishes enrollment preferences, which can include:

- Children of employees of the given school, and
- Siblings already attending the given public school.

The bill would remove the following criteria currently in statute for determining enrollment:

- After school care for students,
- Childcare for siblings of those attending the school,
- Extreme hardship,
- Location of a child’s previous school, and
- Student safety.

The maximum allowable class size, as determined by law or local school board rule, could not be exceeded through a new transfer, but the school who has met capacity would establish a waiting list for when maximum class falls under this. Maximum class size would be set by the local school board, who would also post capacity by grade level and each school’s vacancies at each grade level on the school’s website at least every twelve weeks. Enrollment would be a year-round activity at each school with vacancies.

Subsection K states that each school board should report annually on the effects of adoption of these rules, including transfer acceptances and denials, the reason for any denial, and the number of students transferred out of the student’s attendance area.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, which is May 20, 2026.

FISCAL IMPLICATIONS

There is no appropriation in House Bill 245. Neither PED nor the Regional Education Cooperatives (RECA) specify any fiscal impact, though some impact on school district budgets may occur, especially due to the requirement to post notice of school capacity every twelve weeks.

SIGNIFICANT ISSUES

As stated in a National Conference of State Legislatures (NCSL) summary article, “Open enrollment is a form of school choice that gives families and students the option to attend a public school other than the one that serves the neighborhood in which they live. Open enrollment can permit students to attend a different public school within their assigned district, called intra-district open enrollment, or to attend a school outside of their district, known as inter-district open enrollment.” The article goes on to state that sixteen states have enacted forms of an open enrollment statute.

NCSL goes on to list some of the advantages and disadvantages of open enrollment policies:

Advantages	Disadvantages
<ul style="list-style-type: none">• Gives families access to schools they	<ul style="list-style-type: none">• May exacerbate socioeconomic

<p>believe will better fit their children)</p> <ul style="list-style-type: none"> • Proximity to parents’ work can be optimized • Specific programming advantageous to a given child can be optimized • Might allow minority students to enroll in schools beyond their neighborhoods • Might foster healthy competition among schools. 	<p>barriers, placing the burden of finding a better school on ill-equipped families</p> <ul style="list-style-type: none"> • May cause financial distress for schools, especially underperforming ones. • Will cause transportation disruption, whether special transportation is provided by the school district or parents are responsible for driving the child to a school outside their geographical area.
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PED makes the following points:

- The Equal Educational Opportunities Act of 1974 prohibits discrimination in public schools and educational programs that receive federal funding. This act made it so that, generally, public schools are prohibited from denying enrollment to any school-age person based on factors such as race, color, national origin, citizenship, immigration status, or the status of their parents/guardians. Along the same lines, the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 protect the rights of students with disabilities to receive a free and appropriate public education.
- New Mexico would not be the first state to look to change these enrollment factors. Arkansas passed Senate Bill 624 and 625 in 2025 to strengthen open enrollment by requiring districts to accept students where space is available and publicly post capacity and policies. Nevada opted to go even further with Assembly Bill 533 (2025) to significantly broaden open enrollment by allowing students to attend schools outside their attendance zones if seats are available and requiring districts to publish quarterly seat availability by grade level.
- HB245 would require schools to enroll transfer students throughout the school year, which may encourage multiple enrollment changes each year in steps toward schools perceived as offering greater opportunity. Transferring from school to school in an effort to enroll in ever more highly regarded schools may disrupt learning continuity, affecting student academic progress.
- With local control at the school district and charter school level, transfer of students throughout the school year would potentially impact the learning of students experiencing discontinuity of curriculum. Students may not be taught all required standards and may not experience coherent curriculum across transfers to different schools.
- Missouri’s nonpartisan MOST Policy Institute’s [overview of studies](#) on open enrollment suggests Page | 4 that overall, it does not consistently produce significant gains in standardized test scores, especially when controlling for socioeconomic differences. They also conclude that stronger open enrollment policies do not correlate with higher public-school attendance, dollars spent per pupil, or graduation rates.

Albuquerque Public Schools has put into effect a new pilot program, called “Academies of Albuquerque,” wherein high school students can transfer from one high school within the district to another where a particular career-goal is emphasized in an “academy” devoted to a student’s chosen path, such as health and medical, business and entrepreneurship, public service,

engineering and technology, digital media, creative arts, and agriculture. The new program's effects on student retention, meeting career goals, transportation costs and pollution have yet to be measured.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Most students will continue to be enrolled in the school serving their geographical area.

LAC/dw