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FISCAL IMPACT REPORT

CS/House Bill

BILL NUMBER: 253/ec/HECS/aHAFC/aSFI#2

SHORT TITLE: Public Education Changes

SPONSOR: House Education Committee

LAST ORIGINAL
UPDATE: 2/18/26 **DATE:** 2/9/26 **ANALYST:** Liu/Rovang

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Unit Value	\$69,091.7	\$2,830.4 to \$8,089.0	\$1,787.4 to \$7,046.0	\$73,709.5 to \$84,226.7	Recurring	General Fund
Gallup Program Units	(\$27,985.1)			(\$27,985.1)	Nonrecurring	General Fund
Chama/Santa Rosa Growth Units	(\$41,106.6)			(\$41,106.6)	Nonrecurring	General Fund
Other Enrollment Growth Units		(\$1,043.0)		(\$1,043.0)	Nonrecurring	General Fund
Rural Population Units		(\$1,787.4) to (\$7,046.0)	(\$1,787.4) to (\$7,046.0)	(\$3,574.8 - \$14,092.0)	Recurring	General Fund
Total	\$0.0	\$0.0	\$0.0	\$0.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 19

Duplicates language and relates to appropriation in the House Appropriations and Finance Committee substitute for House Bills 2 and 3 as amended by Senate Finance Committee (General Appropriation Act)

Sources of Information

LFC Files
 Legislative Education Study Committee (LESC) Files

Agency or Agencies Providing Analysis

Regional Education Cooperatives
 Higher Education Department
 Children, Youth and Families Department
 Public Education Department

SUMMARY

Synopsis of SFI#2 to HEC Substitute for House Bill 253

Senate Floor Amendment #2 to the House Education Committee substitute for House Bill 253 pushes back the date of PED's evaluation on full-time distance learning programs (DLP) to the end of FY29 instead of FY28, which delays the five-year cycle of evaluations for all full-time DLPs by one year as well.

Synopsis of HAFC Amendment to HEC Substitute for House Bill 253

The House Appropriations and Finance Committee amendment to House Education Committee substitute for House Bill 253 (HB253) changes the temporary provision related to calculating program units using membership on the first reporting date (40th day) of 2026, rather than the average of the second and third reporting dates (80th and 120th days) of 2025, for a district with at least 8,000 students if membership is 10 percent lower in 2026, to an average of the 40th day of 2026 and 40th day of 2025. For FY26, this effectively reduces the fiscal impact to the Gallup school district from \$41.9 million to \$28 million and raises the unit value by approximately \$45 per unit, or 0.7 percent for all schools.

Synopsis of HEC Substitute for House Bill 253

The House Education Committee substitute for House Bill 253 (HB253) changes the Statewide Cyber Academy Act to the Distance Learning Act and:

- Establishes new reporting requirements and definitions for distance learning,
- Prohibits rural population program units for distance learning students,
- Authorizes the Public Education Department (PED) to request timely reporting from schools on funding formula data,
- Removes collaboration between the Higher Education Department (HED) and PED for the statewide cyber academy program,
- Requires full-time distance learning programs (DLP) to meet instructional hours, class load, teaching load, student data privacy, teacher licensing, and reporting standards,
- Prohibits expansion of grade levels at a full-time DLP without PED certification,
- Requires districts and charters to notify PED by October 15 on the number of students enrolled in a full-time DLP and expenditures related to the program,
- Prohibits districts and charters from requiring a student to enroll in a full-time DLP,
- Allows temporary enrollment in a full-time DLP during a public health emergency,
- Requires districts and charters that have a DLP to provide materials in a format usable by a person with a disability or compatible with the person's assistive technology,
- Requires PED to evaluate all full-time DLP by the end of FY28 and every five years for compliance with the Public School Code and related rules,
- Authorizes PED to withhold funding from districts and charters for DLP students not complying with state laws or rules until corrective actions are approved, and
- Repeals statutory provisions related to an evaluation of Regional Education Cooperatives (REC) distance learning networks.

The bill also includes multiple temporary provisions to:

- Calculate program units using membership on the first reporting date (40th day) of 2026 rather than the average of the second and third reporting date (80th and 120th day) of 2025 for a district with at least 8,000 students if membership is 10 percent lower in 2026,
- Prohibit enrollment growth units for district students enrolled in a full-time DLP in FY26 and FY27,

- Prohibit requests to reorganize or create a new full-time DLP that has most students enrolled in the program in FY27, and
- Requires LESC, in collaboration with LFC and PED to study virtual instruction and report findings by November 1, 2026.

The effective date of this bill's provisions that are not temporary is July 1, 2026. For the temporary provisions, the bill includes an emergency clause, meaning those provisions would go into effect immediately upon the governor's signature.

FISCAL IMPLICATIONS

The bill does not include an appropriation but would affect how online students generate program units in the school funding formula. Any unit losses would mostly be reallocated to all districts and charters in the form of a unit value increase, assuming a flat state equalization guarantee (SEG) appropriation. The fiscal impacts of this bill analysis show the amount of estimated SEG reallocation from potential lost program units.

A review of New Mexico public school names, charter school contracts, and charter documents suggests as many as 12.1 thousand students may be currently participating in a full-time DLP or part-time DLP statewide. Approximately 4,818 students in this analysis appear to be participating in a full-time DLP but the total figure likely underestimates the number of online students statewide, given most districts operate some form of online learning program but many do not distinguish these students as enrolled in a separate virtual school. PED does not regularly collect data identifying whether students are in a full-time DLP or where they reside, leaving a significant margin of error in estimating the fiscal impacts of this bill.

In FY26, the department reported survey results from 99 districts and charters showing 7,285 students in DLPs statewide. Half of the districts and charters in the survey reported having a DLP, and the sample represented 75 percent of total statewide enrollment. These reported online students were more likely to be low-income and in secondary grade levels but less likely to be English learners. PED noted 617 students could not be matched with enrollment records and were excluded from this figure, including four students who appeared to be residing outside of the state. Most online students in the survey did not reside within the district providing the DLP and many platforms were asynchronous programs, meaning online students did not have any interactions with teachers and were accessing programming at their own pace.

Provisions of this bill would prohibit DLP students from generating rural population units, which would likely affect an estimated 1,759 students in DLPs hosted within rural districts with more than 40 percent rurality. This includes 1,569 students who are enrolled at Pecos Cyber Academy, an online charter school that relocated from Carlsbad to Moriarty-Edgewood in FY25 and began generating rural population units. At the current FY26 unit value, this prohibition of rural population units is estimated to have a fiscal impact of at least \$1.8 million. Assuming approximately 13.2 percent of students in rural districts are enrolled in DLPs statewide (based on current estimated rates in some districts), this fiscal impact could be up to \$7 million.

Temporary provisions in this bill would prohibit enrollment growth units for district students enrolled in a full-time DLP in FY26 and FY27, which will affect the transfer of about 3,000 online students from Gallup-McKinley County Schools to Chama Valley Independent Schools and Santa Rosa Consolidated Schools. For FY26, this would block the generation of an estimated

6,043 enrollment growth units at Chama and Santa Rosa. At the current FY26 unit value of \$6,801.35, this prohibition of enrollment growth units is estimated to have a fiscal impact of \$41.1 million. Additional fiscal impacts from enrollment growth in other full-time DLPs is not included in this figure. The bill also limits new FY27 enrollment in full-time DLPs. Assuming approximately 4 percent of enrollment growth units each year are attributable to online school enrollments, the estimated loss of new units for FY27 is projected to be \$1 million.

Temporary provisions in this bill would reduce FY26 program units for a district with at least 8,000 students that lost at least 10 percent of enrollment in 2026. This provision applies only to Gallup, effectively reducing the district's program units due to the transfer of students to Chama and Santa Rosa. Assuming about 3,051 students have exited Gallup's district, this would represent an estimated \$47 million impact to the district's current year SEG distribution, which would then be redistributed to all other districts and charters statewide. This provision is estimated to reduce Gallup's program unit count by 6,907 units, which would effectively raise the FY26 unit value by about \$72, or 1.1 percent for all other schools. Gallup's current SEG distribution is approximately \$193 million.

This provision is estimated to reduce Gallup's program unit count by 6,907 units, which would effectively raise the FY26 unit value by about \$72, or 1.1 percent for all schools. The HAFC amendment would reduce Gallup's program unit count instead by 4,362 units, which would raise the FY26 unit value by about \$45, or 0.7 percent for all schools. Gallup's current SEG distribution is approximately \$193 million.

SIGNIFICANT ISSUES

Three current issues surrounding virtual education in New Mexico are (1) projected budgetary shortfalls and formula funding loopholes, (2) a lack of reporting and accounting of virtual programs, and (3) a lack of direction on when virtual education should or should not be the primary mode of educational delivery. This bill attempts to tackle multiple aspects of the first two issues. Broad policy changes on DLPs without comprehensive data may create unintended consequences.

In 2009, the Public Education Commission (PEC) denied three virtual charter school applications, flagging concerns about whether they had legal authority to authorize online charter schools. PED's legal counsel for PEC issued an opinion that state law defined public schools as "buildings" in a "particular place" in Section 22-1-2 NMSA 1978, reflecting the intent of the Legislature to define schools as brick and mortar, discernible buildings to educate students. Other definitions relating to attendance areas, class sizes, and walking zones also reflected the Legislature's contemplation of the physical presence of children in school buildings.

In 2012, the Farmington school district authorized New Mexico Virtual Academy as a local online charter school and contracted with Stride K12, Inc., a for-profit education management company that provides online education, to manage the online school of 500 students in sixth through 12th grade. In 2014, the New Mexico Attorney General issued an opinion that found administrative and managerial involvement by Stride K12, Inc. at the New Mexico Virtual Academy violated the Charter Schools Act, which explicitly prohibits contracting with a for-profit entity for the management of a charter school. The Attorney General noted the level of control K12, Inc. held over the operations of the school were significant, including interviewing, recommendations on hiring and firing, negotiations, background checks, employee benefits,

human resources, staffing plans, facility management, financial budgeting and planning, maintenance and reporting of student records, school policies and charter renewal, etc. The opinion noted these responsibilities and services constituted “management” of the charter school by a for-profit entity, which violated the law.

In 2013, PEC denied a charter application for New Mexico Connections Academy over concerns the school would be managed by Connections Academy, a for-profit corporation operating virtual charter schools. The PED secretary overturned the PEC’s decision, allowing New Mexico Connections Academy to open. In 2016, the Carlsbad school district authorized Pecos Connections Academy, operated by the same company, to operate a local online charter school.

The anti-donation clause of the state Constitution prohibits all transfers of value from the state to private parties with limited exceptions. Since 1912, there have been about 30 judicial opinions applying the anti-donation clause, primarily dealing with two questions: (1) has the state or any county, school district or municipality made a donation or pledged its credit in aid of any person, association, or corporation? (2) If yes, does an exception to the clause apply? Roughly, these exceptions allow for: the care and maintenance of sick or indigent persons, veterans’ scholarships, loans to nurses, transfers authorized by the Local Economic Development Act, and affordable housing. The two main purposes of the anti-donation clause are to protect the public trust, a principle that expenditure of public funds must be for the benefit of the public and not private interests, and to demarcate the state from public-spirited groups that are not the state and not subject to state control.

In 2016, the New Mexico Attorney General opened an investigation into Stride K12, Inc. after California’s attorney general reached an over \$160 million settlement with Stride K12, Inc. to resolve allegations of false advertising, false claims, and unfair competition. Following this announcement and citing academic and procurement issues, Farmington initially chose not to renew New Mexico Virtual Academy’s charter, then extended the charter with multiple stipulations, and ultimately ended its charter in 2019.

In 2018, Carlsbad started an investigation of its local online charter school, Pecos Connections Academy, after receiving complaints of testing irregularities, a lack of verification on student residency, inadequate teacher staffing, inadequate special education services, and procurement issues. The district eventually revoked Pecos Connections Academy’s charter in 2022.

In 2020, the Gallup school district contracted with Stride K12, Inc. to operate an online school within the district called Destinations Career Academy (DCA) of New Mexico. In FY21, Gallup generated 2,152 enrollment growth units, which included DCA students. In 2025, after citing issues with DCA’s academic performance, staffing, instructional time, special education services, enrollment processes, and reporting practices and alleging conspiracy, fraud, and misinformation, Gallup chose to end its contract with Stride K12, Inc. Months later, Stride K12, Inc. signed agreements with Chama and Santa Rosa to host DCA.

In 2022, PEC authorized Pecos Cyber Academy as a statewide online charter school, following Carlsbad’s revocation of its former charter. In FY25, Pecos Cyber Academy changed its location from Carlsbad to Moriarty-Edgewood and began generating rural population units for all enrolled students. Currently, the state charter receives \$1.8 million for rural population units.

During the LFC hearing on December 11, 2025, PED requested a \$35 million supplemental

appropriation to keep the FY26 unit value flat at \$6,801.35 for all public schools in anticipation of a budgetary shortfall from new enrollment growth units. Neither the executive, LFC, LESC, nor HAFC FY27 budget recommendations support this \$35 million supplemental appropriation request. These projected enrollment growth units are due to 3,051 online students transferring in FY26 to the Chama and Santa Rosa districts from Gallup. After accepting an offer from Stride K12, Inc. to equally split students of the DCA online school in each district, Chama and Santa Rosa made a school reorganization request to PED, which is still pending.

By statute, these transferred DCA online students are still contributing to Gallup’s funded student (MEM) counts for FY26 from the prior year, despite the fact DCA is no longer a school within the district this year. Additionally, the Chama and Santa Rosa districts are entitled to enrollment growth units due to the sudden influx of DCA students in the 40th day student count.

Gallup	FY20	FY21	FY22	FY23	FY24	FY25	FY26	HB253 (FY26)
Funded Students (MEM)	10,872	10,720	11,792	11,750	11,867	11,964	12,557	10,630
Enrollment Growth Units	0	2,152	0	85	0	615	0	0
Total Program Units	22,005	25,834	24,417	23,697	26,168	26,587	28,427	24,065
SEG, in thousands	\$101,274	\$117,204	\$118,739	\$130,869	\$163,331	\$174,243	\$193,341	\$165,356

Source: PED

Pursuant to the Public School Finance Act, schools are entitled to program units using an average MEM count from the prior year and enrollment growth units using the 40th day student count from the current year. As shown in the table above, Gallup experienced a substantial increase in enrollment and funding in the 2020-2021 school year due to contracting with Stride K12, Inc. in 2020. The subsequent MEM increase in the 2021-2022 year became part of the district’s base—an anomaly that year given most other districts lost students from their formula due to school closures in 2020-2021. For the 2025-2026 year, Gallup continues to have a higher MEM count, despite revoking the contract with Stride K12, Inc. in 2025. For the 2026-2027 school year, however, Gallup will lose a significant number of units once the MEM count is reconciled for DCA’s exit.

PERFORMANCE IMPLICATIONS

A 2017 LESC-LFC program evaluation found virtual charter schools produced lower academic outcomes than brick-and mortar-schools, despite serving fewer at-risk students. Compared with brick-and-mortar schools, distance learning schools spent 67 percent less on instructional staff per student and 75 percent less per student spent on maintenance and operations. The evaluation noted the funding formula treated virtual charter schools similarly to brick-and-mortar school, causing financial inefficiencies and possibly incentivizing school districts to authorize virtual charter schools. Planned enrollment growth at virtual charter schools resulted in large annual financial windfalls and significant swings in per-student funding levels.

The 2017 evaluation also found the three virtual charter schools (New Mexico Virtual Academy, New Mexico Connections Academy, and Pecos Connections Academy) all contracted with a for-profit virtual education curriculum provider (Stride K12, Inc. or Connections Education, LLC). In FY17, New Mexico virtual charter schools paid Stride K12, Inc. and Connections a total of \$7.5 million, about half of the \$15 million in expenditures from those schools. Virtual schools

had significantly higher student-to-teacher ratios, with reported ratios as high as 44 students per teacher. Virtual schools also had high student withdrawals, with some schools reporting about a third of students disenrolling during FY17. Compared to the statewide high school retention rate of 54 percent, virtual charter schools reported fewer than 15 percent of the same students four years after enrollment.

Both the 2015 and 2019 Stanford Center for Research on Education Outcomes reports on New Mexico found online charters had substantially weaker learning gains and the inferior performance of online charters offset the positive impact of brick-and-mortar charter schools.

ADMINISTRATIVE IMPLICATIONS

Provisions of this bill have significant administrative implications for PED, requiring all schools to report their distance learning students, and requiring all full-time DLPs to report programs by October 15. PED must also review all full-time DLPs by the end of the 2027-2028 school year and every five years thereafter. HED notes provisions of the bill may limit full-time DLPs providing dual credit or advanced coursework opportunities for high school students.

Provisions of this bill require LESC, in collaboration with LFC and PED, to study virtual instruction in the state, evaluate the status of full-time DLPs or similar programs, and assess the outcomes of students. The study must focus on students in kindergarten through fifth grade, costs of operating the programs, and potential legislative actions by November 1, 2026.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to Senate Bill 19, which allows PED to adjust the unit value on February 27, 2026. The bill duplicates language in the House Appropriations and Finance Committee substitute for House Bills 2 and 3 as amended by Senate Finance Committee (General Appropriation Act), which prohibits new online schools from opening in FY27 and prohibits new enrollment growth units for students enrolling in online schools in FY27 unless their individualized education program provides for remote instruction or they are enrolling in a charter school that includes remote instruction as part of its charter. The budget also includes an earmark of \$5 million for the Gallup school district if a legal settlement for virtual education bankrupts the district.

OTHER SUBSTANTIVE ISSUES

The Children Youth and Families Department notes the creation of the Statewide Cyber Academy from LESC-endorsed legislation in 2007 was intended to be a collaborative program among PED, HED, telecommunications networks, and other state agencies engaged in providing distance education for secondary students. PED operated the academy through its initiative called IDEAL-NM using the Blackboard learning management system. As DLPs advanced, districts and charters created their own programs and opted out of the Statewide Cyber Academy. In FY17, due to state budget solvency issues, the Legislature cut the appropriation for IDEAL-NM, effectively ending the program but leaving the statute intact. Provisions of this bill would replace the statute with new provisions related to distance learning.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

PED may adjust the FY26 unit value on February 27, 2026, likely reducing it by \$37 to cover projected costs of online enrollment growth units at Chama and Santa Rosa. This would effectively reduce SEG distributions for all school districts and charter schools by 0.5 percent. The largest district, Albuquerque Public Schools, would experience an SEG reduction of about \$5.5 million, and the smallest charter school, Moreno Valley High School, would see an SEG reduction of \$5,756.

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