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SENATE BILL 197

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO EDUCATION; ENACTING THE STUDENT ALTERNATIVES ACT;
PROVIDING ALTERNATIVE EDUCATIONAL OPPORTUNITIES FOR HIGH
SCHOOL DROPOUTS; MAKING AN APPROPRIATION; DECLARING AN
EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 9 of this act may be cited as the "Student
Alternatives Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Student Alternatives Act:

- A. "board" means the student alternatives board;
- B. "department" means the department of finance
and administration;
- C. "school alternative" means a:

(1) governmental entity, including the New

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1 Mexico youth conservation corps, a public school or a charter
2 school, that enters into a contract with the department to
3 provide alternative educational opportunities for students;

4 (2) secondary school located in New Mexico,
5 operated by an Indian nation, tribe or pueblo or by the
6 bureau of Indian affairs of the United States department of
7 the interior; or

8 (3) nonprofit corporation or for-profit
9 corporation that contracts with the department to provide
10 alternative educational opportunities for students; and

11 D. "student" means a person between the ages of
12 fourteen and eighteen who has been disenrolled from a public
13 school for any reason or whose attendance or conduct
14 indicates that he may not meet graduation requirements
15 provided in Section 22-2-8.4 NMSA 1978.

16 Section 3. [NEW MATERIAL] PILOT PROJECT--ALTERNATIVE
17 EDUCATION.--

18 A. The department shall solicit proposals for a
19 pilot program to provide alternative educational
20 opportunities for students statewide, with special
21 consideration given to proposals to serve the fifteen high
22 schools with the highest annual dropout rates in the state as
23 determined by the state department of public education. The
24 department shall evaluate responses to its solicitation for
25 proposals and provide recommendations to the board. In
addition, the department shall monitor the performance of
school alternatives.

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1 B. The pilot program shall run until June 1, 2004.

2 Section 4. [NEW MATERIAL] ALTERNATIVE EDUCATION--
3 STUDENTS.--

4 A. The department shall enter into a contract with
5 each school alternative to provide educational services for
6 students. The contract shall contain a provision that
7 provides for a salary increase for a teacher employed at a
8 school alternative whose students show exemplary improvement
9 in academic achievement or attendance. The contract shall
10 also contain a provision that provides more funding to a
11 school alternative whose students, based on an independent
12 analysis, demonstrate exemplary academic achievement and
13 attendance.

14 B. Students enrolled in a school alternative shall
15 be held to the graduation requirements provided in Section
16 22-2-8.4 NMSA 1978. School alternatives shall provide
17 students with transcripts.

18 C. School alternatives may contract for services,
19 including transportation, emergency medical services, food
20 services and security, necessary to provide educational
21 services to students.

22 D. A school alternative may operate on the same
23 site as a public school.

24 E. Except as provided in Section 22-10-3.3 NMSA
25 1978, school alternatives shall be exempt from the
requirements of the School Personnel Act.

F. School alternatives shall maintain records of

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1 student attendance, retention, academic achievement and the
2 number of students who pass the New Mexico high school
3 competency exam.

4 G. School alternatives shall be evaluated by the
5 board on the basis of student attendance, retention, academic
6 achievement and the number of students who pass the New
7 Mexico high school competency examination.

8 H. School alternatives shall enroll no less than
9 one hundred students and no more than two hundred students.

10 I. For each student attending a school
11 alternative, the school shall receive an amount equal to the
12 amount of money generated by the student through the state
13 equalization guarantee distribution provided in the Public
14 School Finance Act and a proportionate per student amount for
15 transportation expenses if the student had attended a public
16 school in his school attendance zone, excluding any size or
17 training and experience adjustment for the school district or
18 the public school.

19 Section 5. [NEW MATERIAL] BOARD--FUNDING.--

20 A. The "student alternatives board" is created.

21 B. The board shall be comprised of:

22 (1) two public members to be appointed by
23 the speaker of the house of representatives;

24 (2) two public members to be appointed by
25 the president pro tempore of the senate;

(3) two representatives of Indian nations,
tribes or pueblos located in New Mexico to be appointed by

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1 the New Mexico office of Indian affairs;

2 (4) two representatives of the business
3 community to be appointed by the governor;

4 (5) two members of the state board of
5 education to be appointed by the president of the state board
6 of education; and

7 (6) three members of the education community
8 to be appointed by the governor.

9 C. The members of the board shall:

10 (1) elect a president, secretary and
11 treasurer; and

12 (2) adopt such rules as may be necessary and
13 appropriate to implement the Student Alternatives Act,
14 including:

15 (a) the application process for
16 entities that seek to operate school alternatives;

17 (b) school alternative contracts;

18 (c) the admission process for students
19 who attend school alternatives;

20 (d) the health and safety of students
21 who attend school alternatives;

22 (e) the terms and conditions of
23 employment of employees of school alternatives;

24 (f) the disbursement of funds to school
25 alternatives; and

(g) the monitoring and evaluation of
the performance of school alternatives.

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1 D. The department shall staff the board.

2 E. The board shall:

3 (1) review proposals submitted by applicants
4 to become school alternatives;

5 (2) allocate funding to the school
6 alternatives selected;

7 (3) ensure that no more than twenty-five
8 percent of available funding is allocated to any one school
9 alternative; and

10 (4) evaluate the performance of school
11 alternatives.

12 F. The board shall report annually to the state
13 board of education, the legislative finance committee, the
14 legislative education study committee and the office of the
15 governor prior to October 15.

16 Section 6. [NEW MATERIAL] APPLICATION TO OPERATE A
17 SCHOOL ALTERNATIVE.--

18 A. The application process to operate a school
19 alternative shall require the applying entity to provide
20 information, including the:

21 (1) identity of the applying entity;

22 (2) name and location of the school
23 alternative;

24 (3) academic focus and curriculum of the
25 school alternative;

(4) support service that will be provided by
the school alternative;

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- 1 (5) school year for the school alternative;
- 2 (6) target population of students that the
- 3 school alternative will be designed to serve;
- 4 (7) projected enrollment of students at the
- 5 school alternative;
- 6 (8) composition, qualifications and method
- 7 of selection of the governing body of the school alternative;
- 8 (9) qualifications and areas of expertise of
- 9 persons who will provide services to students at the school
- 10 alternative;
- 11 (10) strategies for achieving parental and
- 12 community involvement in the operation of the school
- 13 alternative; and
- 14 (11) proposed budget for each school year of
- 15 the school alternative contract.

16 B. If the board denies an application for a school
17 alternative, the board shall provide the unsuccessful
18 applicant with a written statement explaining the basis for
19 the denial. An unsuccessful applicant for a school
20 alternative may reapply.

21 Section 7. [NEW MATERIAL] SCHOOL ALTERNATIVE
22 CONTRACTS.--

- 23 A. If the board approves an application for a
- 24 school alternative, the department and the successful
- 25 applicant shall enter into a school alternative contract.
- B. There shall be a provision in the school
alternative contract establishing criteria for evaluating the

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1 performance of the school alternative, which shall include
2 the:

3 (1) retention, attendance and academic
4 achievement of students; and

5 (2) financial management of the school
6 alternative.

7 Section 8. [NEW MATERIAL] RIGHTS AND OBLIGATIONS OF
8 SCHOOL ALTERNATIVES.--

9 A. A school alternative shall:

10 (1) comply with the provisions of the
11 Student Alternatives Act, the rules adopted by the board and
12 the school alternative contract;

13 (2) comply with the following provisions of
14 the Public School Code:

15 (a) Sections 22-1-6 and 22-1-7 NMSA
16 1978;

17 (b) Section 22-2-8.4 NMSA 1978;

18 (c) Sections 22-10-3 through 22-10-4
19 and 22-10-22 NMSA 1978; and

20 (d) Sections 22-12-1 through 22-12-8
21 NMSA 1978;

22 (3) not charge students for education
23 services, support services or materials; and

24 (4) provide, without charge, transportation
25 for students residing within a two-mile radius of the school
alternative.

B. A school alternative shall comply with the

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1 rules of the state board of education regarding content
2 standards and benchmarks.

3 Section 9. [NEW MATERIAL] ADMISSION OF STUDENTS TO
4 SCHOOL ALTERNATIVES.--

5 A. A person shall be eligible to participate in
6 the school alternative's pilot program if he:

7 (1) qualifies as a student pursuant to the
8 Student Alternatives Act and the rules adopted by the board;
9 and

10 (2) complies with the application process
11 established by the board.

12 B. Except as provided in Subsection C of this
13 section, a school alternative shall admit all eligible
14 students who apply for admission; provided that if the number
15 of such applicants exceeds the number of available spaces, a
16 school alternative shall select eligible students on a random
17 basis.

18 C. A school alternative may:

19 (1) limit admission to a targeted population
20 of students; provided that such limitation may not
21 discriminate on the basis of race, national origin, gender or
22 religion; and

23 (2) give priority for admission to students
24 who were enrolled in the school alternative during the
25 previous school year.

Section 10. Section 22-10-3.3 NMSA 1978 (being Laws
1997, Chapter 238, Section 1, as amended) is amended to read:

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1 "22-10-3.3. BACKGROUND CHECKS.--

2 A. An applicant for initial certification or for
3 employment in a school alternative shall be fingerprinted and
4 shall provide two fingerprint cards or the equivalent
5 electronic fingerprints to the department of education to
6 obtain the applicant's federal bureau of investigation
7 record. Convictions of felonies or misdemeanors contained in
8 the federal bureau of investigation record shall be used in
9 accordance with the Criminal Offender Employment Act. Other
10 information contained in the federal bureau of investigation
11 record, if supported by independent evidence, may form the
12 basis for the denial, suspension or revocation of a
13 certificate or employment in a school alternative for good
14 and just cause. Records and any related information shall be
15 privileged and shall not be disclosed to a person not
16 directly involved in the certification or employment
17 decisions affecting the specific applicant. The applicant
18 for initial certification or employment in a school
19 alternative shall pay for the cost of obtaining the federal
20 bureau of investigation record.

21 B. Local school boards and the student
22 alternatives board shall develop policies and procedures to
23 require background checks on an applicant who has been
24 offered employment, a contractor or a contractor's employee
25 with unsupervised access to students at a public school,
including a charter school or school alternative. An
applicant for employment who has been initially certified

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1 within twelve months of applying for employment with a local
2 school board, ~~[or]~~ a charter school or a school alternative
3 shall not be required to submit to another background check
4 if the department of education has copies of his federal
5 bureau of investigation records on file. An applicant who
6 has been offered employment, a contractor or a contractor's
7 employee with unsupervised access to students at a public
8 school, including a charter school or school alternative,
9 shall provide two fingerprint cards or the equivalent
10 electronic fingerprints to the local school board or student
11 alternatives board to obtain his federal bureau of
12 investigation record. The applicant who has been offered
13 employment, contractor or contractor's employee with
14 unsupervised access to students at a public school, including
15 a charter school or school alternative, may be required to
16 pay for the cost of obtaining a background check. At the
17 request of a local school board, ~~[or]~~ charter school or
18 student alternatives board, the department of education is
19 authorized to release copies of federal bureau of
20 investigation records that are on file with the department of
21 education and that are not more than twelve months old.
22 Convictions of felonies or misdemeanors contained in the
23 federal bureau of investigation record shall be used in
24 accordance with the Criminal Offender Employment Act;
25 provided that other information contained in the federal
bureau of investigation record, if supported by independent
evidence, may form the basis for the employment decisions for

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1 good and just cause. Records and [~~any~~] related information
2 shall be privileged and shall not be disclosed to a person
3 not directly involved in the employment decision affecting
4 the specific applicant who has been offered employment,
5 contractor or contractor's employee with unsupervised access
6 to students at a public school, including a charter school or
7 school alternative.

8 C. The department of education shall implement the
9 provisions of Subsection A of this section on or before
10 July 1, 1998."

11 Section 11. APPROPRIATION.--Three million dollars
12 (\$3,000,000) is appropriated from the general fund to the
13 department of finance and administration for expenditure in
14 fiscal year 2001 for the purpose of carrying out the
15 provisions of the Student Alternatives Act. No more than
16 twenty-five percent per year of any appropriation may be
17 used to contract with any one school alternative. Any
18 unexpended or unencumbered balance remaining at the end of
19 fiscal year 2001 shall revert to the general fund.

20 Section 12. EMERGENCY.--It is necessary for the
21 public peace, health and safety that this act take effect
22 immediately.