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SENATE BILL 260

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

INTRODUCED BY  
Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EARLY CHILDHOOD AND FAMILY SUPPORT EDUCATION  
PROGRAMS; EXPANDING PROGRAMS; REQUIRING ACCOUNTABILITY;  
MAKING APPROPRIATIONS.

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

Section 1. A new section of the Public School Code is  
enacted to read:

"[NEW MATERIAL] EARLY CHILDHOOD AND FAMILY SUPPORT  
EDUCATION PROGRAMS.--

A. The department of education, upon approval of  
optional early childhood and family support education  
programs, shall distribute money to those school districts  
that address program elements, including:

(1) initial implementation or expansion of  
full-day kindergarten;

(2) initial implementation or expansion of

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1 half-day programs for children ages three through five; and  
2 (3) initial implementation or expansion of  
3 summer programs or transition programs for children ages  
4 three through five.

5 B. In requesting funding for early childhood and  
6 family support education programs, school districts shall  
7 establish partnerships with local community-based public or  
8 private programs that offer pre-school educational services.  
9 Each funded proposal shall include and demonstrate a family  
10 involvement component that is based on family support  
11 principles for each of the program elements described in  
12 Subsection A of this section. School districts shall  
13 maintain fiscal agent responsibility in a partnership.

14 C. In requesting funding for early childhood and  
15 family support education programs, school districts shall  
16 demonstrate a plan for a five-year phase-in as follows:

17 (1) effective with the 2001-2002 school  
18 year, the district shall serve those children most in need  
19 based upon the indicators in the at-risk factor;

20 (2) effective with the 2002-2005 school  
21 years, the district shall expand services to additional  
22 children in need or provide additional services to those  
23 children most in need; and

24 (3) effective with the 2005-2006 school  
25 year, the district shall expand services to the remainder of  
children in need or provide additional services to those  
children most in need."

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1           Section 2. A new section of the Public School Code is  
2 enacted to read:

3           "[NEW MATERIAL] PROGRAM APPROVAL.--

4           A. An approved early childhood and family support  
5 education program shall reflect the employment and economic  
6 development needs of the local community and encompass  
7 health, safety and nutrition. The program shall support the  
8 educational and developmental needs of children, address  
9 cultural diversity and provide family support.

10          B. A school district that receives funding for an  
11 early childhood and family support education program shall  
12 evaluate and document the results of the program in terms of  
13 the number of children and families served, the services  
14 provided and the gains achieved by the children and their  
15 families and then report those results to the department of  
16 education.

17          C. A school district that receives funding for an  
18 early childhood and family support education program shall  
19 implement or expand a program for job skills and leadership  
20 development for mothers and fathers of participants who are  
21 recipients of federal and state support. To satisfy federal  
22 and state temporary assistance for needy families block grant  
23 maintenance of effort requirements, a school district that  
24 receives funding shall identify and report families  
25 participating in the program who are eligible pursuant to the  
New Mexico Works Act.

        D. Student and family participation in an early

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1 childhood and family support education program shall be  
2 voluntary on the part of parents."

3 Section 3. A new section of the Public School Code is  
4 enacted to read:

5 "[NEW MATERIAL] DUTIES OF THE DEPARTMENT OF EDUCATION.--

6 A. By July 1, 2000, the department of education  
7 shall develop guidelines for the approval process for early  
8 childhood and family support education programs, disseminate  
9 those guidelines to all school districts and provide  
10 technical assistance in developing proposals. The  
11 department, in partnership with other agencies and interested  
12 persons, shall define approval criteria inclusive of at-risk  
13 indicators, quality performance indicators and benchmarks  
14 that ensure positive results for participants and provide  
15 accountability to the public.

16 B. The department of education shall monitor early  
17 childhood and family support education programs and ensure  
18 that they serve the children most in need based upon age-  
19 appropriate assessments. If the department determines that a  
20 program is not meeting the benchmarks necessary to ensure the  
21 progress of students in the program, the department shall  
22 notify the school district that failure of the program to  
23 meet the benchmarks within sixty days will result in the  
24 cessation of funding for the program. The department shall  
25 compile the program results submitted by the school districts  
and make an annual report to the legislative education study  
committee."

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1           Section 4. Section 22-2-2 NMSA 1978 (being Laws 1967,  
2 Chapter 16, Section 5, as amended) is amended to read:

3           "22-2-2. STATE BOARD--DUTIES.--Without limiting those  
4 powers granted to the state board pursuant to Section 22-2-1  
5 NMSA 1978, the state board shall perform the following  
6 duties:

7                   A. properly and uniformly enforce the provisions  
8 of the Public School Code;

9                   B. determine policy for the operation of all  
10 public schools and vocational education programs in the  
11 state;

12                   C. appoint a state superintendent;

13                   D. purchase and loan instructional material to  
14 students pursuant to the Instructional Material Law and adopt  
15 rules relating to the use and operation of instructional  
16 material depositories in the instructional material  
17 distribution process;

18                   E. designate courses of instruction to be taught  
19 in all public schools in the state;

20                   F. assess and evaluate all state institutions and  
21 those private schools that desire state accreditation;

22                   G. determine the qualifications for and issue a  
23 certificate to any person teaching, assisting teachers,  
24 supervising an instructional program, counseling, providing  
25 special instructional services or administering in public  
schools, according to law and according to a system of  
classification adopted and published by the state board;

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1           H. suspend or revoke a certificate held by a  
2 certified school instructor or certified school  
3 administrator, according to law, for incompetency, immorality  
4 or ~~[for]~~ any other good and just cause;

5           I. make full and complete reports on consolidation  
6 of school districts to the legislature;

7           J. prescribe courses of instruction, requirements  
8 for graduation and standards for all public schools,  
9 including early childhood and family support education  
10 programs offered by the public schools, for private schools  
11 seeking state accreditation and for the educational programs  
12 conducted in state institutions other than the New Mexico  
13 military institute;

14           K. adopt rules for the administration of all  
15 public schools and bylaws for its own administration;

16           L. require periodic reports on forms prescribed by  
17 it from all public schools and attendance reports from  
18 private schools;

19           M. authorize adult educational programs to be  
20 conducted in schools under its jurisdiction and adopt and  
21 promulgate rules governing all such adult educational  
22 programs;

23           N. require any school under its jurisdiction that  
24 sponsors athletic programs involving sports to mandate that  
25 the participating student obtain catastrophic health and  
accident insurance coverage, such coverage to be offered  
through the school and issued by an insurance company duly

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1 licensed pursuant to the laws of New Mexico;

2 O. require all accrediting agencies for public  
3 schools in the state to act with its approval;

4 P. accept and receive all grants of money from the  
5 federal government or any other agency for public school  
6 purposes and disburse the money in the manner and for the  
7 purpose specified in the grant;

8 Q. require prior approval for any educational  
9 program in a public school that is to be conducted,  
10 sponsored, carried on or caused to be carried on by a private  
11 organization or agency;

12 R. approve or disapprove all rules promulgated by  
13 any association or organization attempting to regulate any  
14 public school activity and invalidate any rule in conflict  
15 with any rule promulgated by the state board. The state  
16 board shall require any association or organization  
17 attempting to regulate any public school activity to comply  
18 with the provisions of the Open Meetings Act and be subject  
19 to the inspection of the Public Records Act. The state board  
20 may require performance and financial audits of any  
21 association or organization attempting to regulate any public  
22 school activity. The state board shall have no power or  
23 control over the rules or the bylaws governing the  
24 administration of the internal organization of the  
25 association or organization;

S. review decisions made by the governing board or  
officials of any organization or association regulating any

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1 public school activity, and any decision of the state board  
2 shall be final in respect thereto;

3 T. accept or reject any charitable gift, grant,  
4 devise or bequest. The particular gift, grant, devise or  
5 bequest accepted shall be considered an asset of the state;

6 U. establish and maintain regional centers, at its  
7 discretion, for conducting cooperative services between  
8 public schools and school districts within and among those  
9 regions and to facilitate regulation and evaluation of school  
10 programs;

11 V. assess and evaluate for accreditation purposes  
12 at least one-third of all public schools each year through  
13 visits by department of education personnel to investigate  
14 the adequacy of pupil gain in standard required subject  
15 matter, adequacy of pupil activities, functional feasibility  
16 of public school and school district organization, adequacy  
17 of staff preparation and other matters bearing upon the  
18 education of the students;

19 W. provide for management and other necessary  
20 personnel to operate any public school or school district  
21 that has failed to meet requirements of law, state board  
22 standards or state board rules; provided that the operation  
23 of the public school or school district shall not include any  
24 consolidation or reorganization without the approval of the  
25 local board of that school district. Until such time as  
requirements of law, standards or rules have been met and  
compliance is assured, the powers and duties of the local

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1 school board shall be suspended;

2 X. establish and implement a plan that provides  
3 for technical assistance to local school boards through  
4 workshops and other in-service training methods; provided,  
5 however, that no plan shall require mandatory attendance by  
6 any member of a local school board;

7 Y. submit a plan applying for funds available  
8 under Public Law 94-142 and disburse these funds in the  
9 manner and for the purposes specified in the plan;

10 Z. enforce requirements for home schools. Upon  
11 finding that a home school is not in compliance with law, the  
12 state board has authority to order that a student attend a  
13 public school or a private school; and

14 AA. develop a systemic framework for professional  
15 development that provides training to ensure quality teachers  
16 and principals and that improves and enhances student  
17 achievement. The state board shall work with public school  
18 educators, the commission on higher education and  
19 institutions of higher education to establish the framework.  
20 The framework shall include:

21 (1) the criteria for school districts to  
22 apply for professional development funds, including an  
23 evaluation component that will be used by the department of  
24 education in approving local school district professional  
25 development plans; and

(2) guidelines for developing extensive  
professional development activities for school districts,

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1 including teaching strategies, curriculum materials, distance  
2 learning networks and web sites to ensure that the state  
3 board's rules pertaining to content standards and benchmarks  
4 are used by New Mexico teachers."

5 Section 5. Section 22-2-8.1 NMSA 1978 (being Laws 1986,  
6 Chapter 33, Section 2, as amended) is amended to read:

7 "22-2-8.1. LENGTH OF SCHOOL DAY--MINIMUM.--

8 A. Regular students shall be in school-directed  
9 programs, exclusive of lunch, for a minimum of the following:

10 (1) pre-kindergarten, for half-day programs,  
11 two and one-half hours per day or four hundred fifty hours  
12 per year;

13 ~~[+1]~~ (2) kindergarten, for half-day  
14 programs, two and one-half hours per day or four hundred  
15 fifty hours per year or, for full-day programs, five hours  
16 per day or nine hundred hours per year;

17 ~~[+2]~~ (3) grades one through six, five and  
18 one-half hours per day or nine hundred ninety hours per year;  
19 and

20 ~~[+3]~~ (4) grades seven through twelve, six  
21 hours per day or one thousand eighty hours per year.

22 B. Nothing in this section precludes a local  
23 school board from setting length of school days in excess of  
24 the minimum requirements established by Subsection A of this  
25 section.

C. The state superintendent may waive the minimum  
length of school days in those districts where such minimums

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1 would create undue hardships as defined by the state board."

2 Section 6. Section 22-8-2 NMSA 1978 (being Laws 1978,  
3 Chapter 128, Section 3, as amended) is amended to read:

4 "22-8-2. DEFINITIONS.--As used in the Public School  
5 Finance Act:

6 A. "ADM" or "MEM" means membership;

7 B. "membership" means the total enrollment of  
8 qualified students on the current roll of a class or school  
9 on a specified day. The current roll is established by the  
10 addition of original entries and reentries minus withdrawals.  
11 Withdrawals of students, in addition to students formally  
12 withdrawn from the public school, include students absent  
13 from the public school for as many as ten consecutive school  
14 days;

15 C. "basic program ADM" or "basic program MEM"  
16 means the MEM of qualified students but excludes the full-  
17 time-equivalent MEM in early childhood education and three-  
18 and four-year-old students receiving special education  
19 services;

20 D. "cost differential factor" is the numerical  
21 expression of the ratio of the cost of a particular segment  
22 of the school program to the cost of the basic program in  
23 grades four through six;

24 E. "department" or "division" means the state  
25 department of public education;

F. "early childhood education ADM" or "early  
childhood education MEM" means the full-time-equivalent MEM

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1 of students attending approved early childhood education  
2 programs;

3 G. "full-time-equivalent ADM" or "full-time-  
4 equivalent MEM" is that membership calculated by applying to  
5 the MEM in an approved public school program the ratio of the  
6 number of hours per school day devoted to the program to six  
7 hours or the number of hours per school week devoted to the  
8 program to thirty hours;

9 H. "operating budget" means the annual financial  
10 plan required to be submitted by a local school board;

11 I. "program cost" is the product of the total  
12 number of program units to which a school district is  
13 entitled multiplied by the dollar value per program unit  
14 established by the legislature;

15 J. "program element" is that component of a public  
16 school system to which a cost differential factor is applied  
17 to determine the number of program units to which a school  
18 district is entitled, including but not limited to MEM, full-  
19 time-equivalent MEM, teacher, classroom or public school;

20 K. "program unit" is the product of the program  
21 element multiplied by the applicable cost differential  
22 factor;

23 L. "public money" or "public funds" means all  
24 money from public or private sources received by a local  
25 school board or officer or employee of a local school board  
for public use;

M. "qualified student" means a public school

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student who:

(1) has not graduated from high school;

(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the state board for public school students; and

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

(4) is at least three years of age at any time during the school year and is receiving special education services pursuant to ~~[regulation]~~ rule of the state board or, from July 1, 2000 through June 30, 2006, is enrolled in an approved early childhood and family support education program; or

(5) has not reached his twenty-second birthday on the first day of the school year and is receiving special education services pursuant to ~~[regulation]~~ rule of the state board; and

N. "state superintendent" means the superintendent of public instruction or his designee."

Section 7. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL SCHOOL BOARD RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) through ~~[(4) in]~~ (5) of this subsection by the ~~[instruction]~~

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1 instructional staff training and experience index and adding  
2 the program units itemized as Paragraphs ~~[(5)]~~ (6) through  
3 ~~[(8) in]~~ (9) of this subsection. The itemized program units  
4 are as follows:

5 (1) early childhood education;

6 (2) early childhood and family support  
7 education;

8 ~~[(2)]~~ (3) basic education;

9 ~~[(3)]~~ (4) special education, adjusted by  
10 subtracting the units derived from membership in class D  
11 special education programs in private, nonsectarian,  
12 nonprofit training centers;

13 ~~[(4)]~~ (5) bilingual multicultural education;

14 ~~[(5)]~~ (6) size adjustment;

15 ~~[(6)]~~ (7) at-risk program;

16 ~~[(7)]~~ (8) enrollment growth or new district  
17 adjustment; and

18 ~~[(8)]~~ (9) special education units derived  
19 from membership in class D special education programs in  
20 private, nonsectarian, nonprofit training centers.

21 B. The total program cost calculated as prescribed  
22 in Subsection A of this section includes the cost of early  
23 childhood, special, bilingual multicultural and vocational  
24 education and other remedial or enrichment programs. It is  
25 the responsibility of the local school board to determine its  
priorities in terms of the needs of the community served by  
that board. Funds generated under the Public School Finance

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1 Act are discretionary to local school boards, provided that  
2 the special program needs as enumerated in this section are  
3 met."

4 Section 8. Section 22-8-19 NMSA 1978 (being Laws 1974,  
5 Chapter 8, Section 9, as amended) is amended to read:

6 "22-8-19. EARLY CHILDHOOD EDUCATION AND EARLY CHILDHOOD  
7 AND FAMILY SUPPORT EDUCATION PROGRAM UNITS.--

8 A. The number of early childhood education program  
9 units is determined by multiplying the early childhood  
10 education MEM by the cost differential factor 1.44. No early  
11 childhood education student shall be counted for more than  
12 0.5 early childhood education MEM.

13 B. For the purpose of calculating early childhood  
14 and family support education program units, effective with  
15 school year 2001-2002, the early childhood education MEM of  
16 1.0, not including developmentally disabled three- and four-  
17 year-old students, shall be multiplied by 0.144; effective  
18 with school year 2002-2003, the early childhood education MEM  
19 of 1.0, not including developmentally disabled three- and  
20 four-year-old students, shall be multiplied by 0.288;  
21 effective with school year 2003-2004, the early childhood  
22 education MEM of 1.0, not including developmentally disabled  
23 three- and four-year-old students, shall be multiplied by  
24 0.432; effective with school year 2004-2005, the early  
25 childhood education MEM of 1.0, not including developmentally  
disabled three- and four-year-old students, shall be  
multiplied by 0.576; and effective with school year 2005-

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1 2006, the early childhood and family support education MEM,  
2 which shall be determined by the number of students served by  
3 such programs, shall be multiplied by 0.72.

4 [B:] C. For the purpose of calculating early  
5 childhood education program units, developmentally disabled  
6 three- and four-year-old students shall be counted in early  
7 childhood education membership. No developmentally disabled  
8 three- or four-year-old student shall be counted for more  
9 than 0.5 early childhood education MEM."

10 Section 9. [NEW MATERIAL] DUTIES OF THE HUMAN SERVICES  
11 DEPARTMENT.--The human services department shall assist the  
12 state department of public education and the local school  
13 districts in identifying and tracking children in families  
14 eligible for benefits pursuant to the New Mexico Works Act.  
15 The human services department shall also provide technical  
16 assistance to local school districts implementing or  
17 expanding a job skills program pursuant to Subsection C of  
18 Section 2 of this act.

19 Section 10. APPROPRIATIONS.--

20 A. Seventy-five thousand dollars (\$75,000) is  
21 appropriated from the general fund to the state department of  
22 public education for expenditure in fiscal years 2001 and  
23 2002 to develop and disseminate application guidelines and  
24 otherwise administer the provisions of this act pertaining to  
25 the early childhood and family support education program.  
Any unexpended or unencumbered balance remaining at the end  
of fiscal year 2002 shall revert to the general fund.



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B. Nine million dollars (\$9,000,000) is appropriated from the general fund to the state department of public education for expenditure in fiscal year 2001 and subsequent fiscal years for the purpose of funding early childhood and family support education program units at the program unit value established by the superintendent of public instruction. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall not revert to the general fund.

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.