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**HOUSE BILL 84**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Daniel Foley**

**AN ACT**

**RELATING TO SCHOOL VOUCHERS FOR ELEMENTARY AND SECONDARY  
EDUCATION; AUTHORIZING REDEMPTION OF VOUCHERS AT PUBLIC AND  
PRIVATE SCHOOLS; AMENDING AND ENACTING SECTIONS OF THE PUBLIC  
SCHOOL CODE.**

**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] SHORT TITLE. -- Sections 1 through 8 of  
this act may be cited as the "Elementary and Secondary School  
Voucher Act". "**

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

**" [NEW MATERIAL] LEGISLATIVE FINDINGS AND PURPOSE. --**

**A. The legislature finds that:**

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1 (1) every family in New Mexico should have  
2 the option to take advantage of the best educational  
3 opportunities available to their school-age children;

4 (2) providing families in New Mexico a choice  
5 between schools leads to competition that benefits students  
6 and improves the quality of public schools;

7 (3) students should be allowed to improve  
8 their learning potential through educational opportunities  
9 that are best suited to their individual needs and interests;  
10 and

11 (4) low-income families should not be denied  
12 educational choices for their school-age children.

13 B. The purpose of the Elementary and Secondary  
14 School Voucher Act is to establish a voucher program that  
15 provides New Mexico's students the opportunity to attend their  
16 choice of public or private schools in order to best suit  
17 their individual needs and interests. "

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

20 "[NEW MATERIAL] DEFINITIONS. --As used in the Elementary  
21 and Secondary School Voucher Act:

22 A. "family income" means the income of a student's  
23 parent or legal guardian who resides with the student at the  
24 student's principal residence;

25 B. "federal poverty guidelines" means the level of

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1 income defining poverty by family size published annually in  
2 the federal register by the United States department of health  
3 and human services;

4 C. "local school district" means the school  
5 district where a student resides;

6 D. "program" means the elementary and secondary  
7 school voucher program; and

8 E. "voucher" means a note that will be issued to a  
9 qualifying parent through the department of education that can  
10 be used to educate his child at a public or eligible private  
11 school as defined in the Public School Code. "

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

14 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING  
15 RULES. --

16 A. The department of education shall establish and  
17 bear the cost of administering the program.

18 B. The state board shall establish guidelines for  
19 the implementation and operation of the program.

20 C. A private school shall not be required to  
21 participate in the program.

22 D. The department of education, in cooperation  
23 with the school districts, shall embark on a public awareness  
24 campaign to inform the public about the program using the  
25 schools, other government agencies and the media. "

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1 Section 5. A new section of the Public School Code is  
2 enacted to read:

3 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

4 A. A student who is a resident of New Mexico and  
5 is at least five years of age prior to 12:01 a.m. September 1  
6 of the school year or is a developmentally disabled three- or  
7 four-year-old child is eligible to participate in the program  
8 if his family meets the following criteria:

9 (1) for the 2001-2002 school year, the  
10 student's family income in 2000 does not exceed one hundred  
11 percent of the 2000 federal poverty guidelines;

12 (2) for the 2002-2003 school year, the  
13 student's family income in 2001 does not exceed one hundred  
14 eighty-five percent of the 2001 federal poverty guidelines;  
15 and

16 (3) for the 2003-2004 school year, the  
17 student's family income in 2002 does not exceed two hundred  
18 thirty-five percent of the 2002 federal poverty guidelines.

19 B. For the 2004-2005 school year and subsequent  
20 years, all students shall be eligible to participate in the  
21 program "

22 C. A student who receives a voucher pursuant to  
23 the Elementary and Secondary School Voucher Act shall  
24 participate in the testing required by Subsection B of Section  
25 22-1-6 NMSA 1978. The testing shall be administered by the

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1 school district in which the student who receives the voucher  
2 resides. "

3 Section 6. A new section of the Public School Code is  
4 enacted to read:

5 "[NEW MATERIAL] ELIGIBLE PRIVATE SCHOOLS. --

6 A. To be eligible to participate in the program, a  
7 private school shall:

8 (1) register with the superintendent of a  
9 local school district as an eligible private school;

10 (2) maintain or develop antidiscrimination  
11 policies to prevent discrimination on the basis of race,  
12 color, national origin or ancestry; and

13 (3) develop policies that do not discriminate  
14 against students who are recipients of elementary and  
15 secondary school vouchers.

16 B. A private school that accepts students that are  
17 participants in the program shall not be required to comply  
18 with rules that apply to public schools promulgated by either  
19 the state board or the local school board. "

20 Section 7. A new section of the Public School Code is  
21 enacted to read:

22 "[NEW MATERIAL] PROCEDURES FOR USING VOUCHERS. --

23 A. A parent may use a voucher to enroll his child  
24 in a public school outside of the school district in which the  
25 child resides.

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1           B. A school district shall adopt specific, written  
2 standards for acceptance and rejection of vouchers provided  
3 for in the Elementary and Secondary School Voucher Act based  
4 on the capacity of a program, class size, grade level or  
5 school buildings.

6           C. Not earlier than March 1 and not later than  
7 July 1 prior to the beginning of a school year, a student's  
8 parent or legal guardian may apply to the local school  
9 district superintendent to participate in the program. The  
10 local school district superintendent may waive the application  
11 deadline. The application shall contain the following  
12 information:

- 13                   (1) the student's name and address;
- 14                   (2) the student's date of birth;
- 15                   (3) the student's social security number;
- 16                   (4) the student's school attendance zone;
- 17                   (5) the student's grade level;
- 18                   (6) the name and address of the student's  
19 parent or legal guardian who is residing with the child;
- 20                   (7) for a parent or legal guardian who  
21 resides with the student at the student's principal residence,  
22 when required by the local school district superintendent,  
23 proof of income eligibility through copies of:

- 24                           (a) the student's, parent's or legal  
25 guardian's three most recent paycheck receipts for all

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1 employment;

2 (b) a signed statement by the parent's  
3 or legal guardian's employer indicating his weekly, biweekly  
4 or annual net earnings; or

5 (c) a signed statement by the parent or  
6 legal guardian that he is self-employed and that indicates his  
7 annual net earnings and a copy of his most recent income tax  
8 return;

9 (8) whether the student was enrolled in a  
10 class A, B, C or D special education program in the prior  
11 school year or, for a child entering school for the first  
12 time, whether the child has a diagnosed developmental  
13 disability or learning disorder;

14 (9) whether the student speaks a language  
15 other than English as his principal language; and

16 (10) the name, tuition, fees and address of  
17 the public or private school to which the student intends to  
18 apply.

19 D. No later than forty-five days after the  
20 application is received, the local school district  
21 superintendent shall act on the application, notify the parent  
22 or legal guardian of the value of the voucher and issue the  
23 voucher if the application is approved.

24 E. The voucher shall be issued to the student in  
25 the care of the student's parent or legal guardian. The

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1 voucher shall not be issued to the private school or school  
2 district containing the public school that the student chooses  
3 to attend.

4 F. The student and his parent or legal guardian  
5 shall solely select the public or private school the student  
6 chooses to attend. The state shall not decide which school a  
7 student may attend. The state shall not advise or influence  
8 the student's selection of a school.

9 G. Not later than August 15 of each year, the  
10 local school district superintendent shall report to the  
11 department of education the ages, school attendance zones and  
12 voucher values of students participating in the program."

13 Section 8. A new section of the Public School Code is  
14 enacted to read:

15 "[NEW MATERIAL] VOUCHERS-- REDEMPTION. --

16 A. The value of the voucher shall be equal to the  
17 amount of money generated by the student through the state  
18 equalization guarantee distribution provided in the Public  
19 School Finance Act and a proportionate per student amount for  
20 transportation expenses if the student had attended a public  
21 school in his school attendance zone. The value of the  
22 voucher shall also include a proportionate allocation for the  
23 local school district's at-risk funding. The department of  
24 education shall calculate the value of a student's voucher  
25 using the state equalization guarantee distribution formula.

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1           B. Subject to the value of the voucher set forth  
2 in Subsection A of this section, the voucher redemption value  
3 shall not exceed the tuition and fees charged by a private  
4 school for students not participating in the program unless  
5 the cost of educating the student presenting the voucher is  
6 greater than the tuition and fees charged, in which case the  
7 value of the voucher shall not exceed those costs.

8           C. Within fifteen days after receiving a voucher,  
9 a private school shall, in writing, certify the enrollment of  
10 the student named on the voucher and shall, in writing,  
11 certify the amount of tuition and fees charged by the private  
12 school to the department of education.

13           D. A private school or public school district  
14 located outside of the student's attendance zone shall redeem  
15 the value of the voucher from the local school district in the  
16 following installments: twenty-five percent of the value  
17 determined in Subsection A of this section in September,  
18 twenty-five percent of the value determined in Subsection A of  
19 this section in November, twenty-five percent of the value  
20 determined in Subsection A of this section in February and  
21 twenty-five percent of the value determined in Subsection A of  
22 this section in May. The installments shall be paid on the  
23 first day of the applicable month.

24           E. If a private school disenrolls a student during  
25 the school year or if the student is absent for ten

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1 consecutive days without explanation from his parent or legal  
2 guardian, the private school shall, in writing, notify the  
3 local school district, and the voucher redemption shall cease.

4 F. If a parent or legal guardian disenrolls a  
5 student from a private school and enrolls the student in  
6 another private school or in a public school during the school  
7 year, the parent or legal guardian shall, in writing, notify  
8 the local school district. Upon receipt of proof of  
9 enrollment in another private school and certification of  
10 tuition and fees charged by the new private school, the  
11 remaining scholarship redemption installments shall be made to  
12 the new private school. Upon proof of enrollment in a public  
13 school, the remaining redemption installments shall be made to  
14 the school district in which the public school is located."

15 Section 9. 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 and all students who have qualified for  
23 receipt of vouchers pursuant to the Elementary and Secondary  
24 School Voucher Act. The current roll is established by the  
25 addition of original entries and reentries minus withdrawals.

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1 Withdrawals of students, in addition to students formally  
2 withdrawn from the public school, include students absent from  
3 the public school for as many as ten consecutive school days;

4 C. "basic program ADM" or "basic program MEM"  
5 means the MEM of qualified students but excludes the full-  
6 time-equivalent MEM in early childhood education and three-  
7 and four-year-old students receiving special education  
8 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 state  
14 department of public education;

15 F. "early childhood education ADM" or "early  
16 childhood education MEM" means the full-time-equivalent MEM of  
17 students attending approved early childhood education  
18 programs;

19 G. "full-time-equivalent ADM" or "full-time-  
20 equivalent MEM" is that membership calculated by applying to  
21 the MEM in an approved public school program the ratio of the  
22 number of hours per school day devoted to the program to six  
23 hours or the number of hours per school week devoted to the  
24 program to thirty hours;

25 H. "operating budget" means the annual financial

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1 plan required to be submitted by a local school board;

2 I. "program cost" is the product of the total  
3 number of program units to which a school district is entitled  
4 multiplied by the dollar value per program unit established by  
5 the legislature;

6 J. "program element" is that component of a public  
7 school system to which a cost differential factor is applied  
8 to determine the number of program units to which a school  
9 district is entitled, including but not limited to MEM, full-  
10 time-equivalent MEM, teacher, classroom or public school;

11 K. "program unit" is the product of the program  
12 element multiplied by the applicable cost differential factor;

13 L. "public money" or "public funds" means all  
14 money from public or private sources received by a local  
15 school board or officer or employee of a local school board  
16 for public use;

17 M. "qualified student" means a public school  
18 student who:

19 (1) has not graduated from high school;

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

23 (3) is at least five years of age prior to  
24 12:01 a. m. on September 1 of the school year; or

25 (4) is at least three years of age at any

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1 time during the school year and is receiving special education  
2 services pursuant to [~~regulation~~] rule of the state board; or

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

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