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HOUSE BILL 378

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

INTRODUCED BY

Terry T. Marquardt

AN ACT

**RELATING TO SCHOOL VOUCHERS FOR ELEMENTARY AND SECONDARY
EDUCATION; AUTHORIZING REDEMPTION OF VOUCHERS AT PUBLIC
SCHOOLS; RECONCILING A SECTION OF LAW THAT WAS AMENDED TWICE
IN 2000.**

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 7 of
this act may be cited as the "Student Choice 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:

(1) families in New Mexico should have the

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1 option to take advantage of the best public school educational
2 opportunities available to their school-age children;

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

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

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

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

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

19 "[NEW MATERIAL] DEFINITIONS. -- As used in the Student
20 Choice Voucher Act:

21 A. "program" means the student choice voucher
22 program; and

23 B. "voucher" means an instrument issued to a
24 qualifying parent through the department of education that can
25 be used to educate his child at any public school. "

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

3 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING
4 RULES. --

5 A. The department of education shall establish and
6 bear the cost of administering the program.

7 B. The state board shall establish guidelines for
8 the implementation and operation of the program.

9 C. The department of education, in cooperation
10 with the school districts, shall embark on a public awareness
11 campaign to inform the public about the program using the
12 schools, other government agencies and the media. "

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

15 "[NEW MATERIAL] ELIGIBLE STUDENTS. --A student who is a
16 resident of New Mexico, is at least five years of age prior to
17 12:01 a.m. September 1 of the school year or is a
18 developmentally disabled three- or four-year-old child is
19 eligible to participate in the program if the following
20 criteria are met:

21 A. for the 2001-2002 school year, the student
22 resides in a class A county or a class B county with a
23 population of greater than ninety-five thousand and a net
24 taxable value for property taxation purposes of greater than
25 two billion dollars (\$2, 000, 000, 000);

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1 B. for the 2002-2003 school year, the student
2 resides in a class B county not described in Subsection A of
3 this section; and

4 C. for the 2003-2004 school year and all
5 subsequent school years, the student resides in any county. "

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

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

9 A. A parent may use a voucher to enroll his child
10 in a public school outside of the school district in which the
11 child resides.

12 B. A school district shall accept for enrollment
13 any student with a voucher provided for in the Student Choice
14 Voucher Act.

15 C. Not earlier than February 15 and not later than
16 May 15 prior to the beginning of a school year, a student's
17 parent or legal guardian may apply to the superintendent of
18 the school district in which the student resides to
19 participate in the program. The school district
20 superintendent may waive the application deadline. For a
21 student applying to attend a public school outside of the
22 student's attendance zone, the department of education may
23 require that the application contain the following
24 information:

25 (1) the student's name and address;

- 1 (2) the student's date of birth;
- 2 (3) the student's social security number;
- 3 (4) the student's school attendance zone;
- 4 (5) the student's grade level;
- 5 (6) the name and address of the student's
- 6 parent or legal guardian who is residing with the child;
- 7 (7) whether the student was enrolled in a
- 8 class A, B, C or D special education program in the prior
- 9 school year or, for a child entering school for the first
- 10 time, whether the child has a diagnosed developmental
- 11 disability or learning disorder;
- 12 (8) whether the student speaks a language
- 13 other than English as his principal language; and
- 14 (9) the name of the public school to which
- 15 the student intends to apply.

16 D. No later than thirty days after the application
17 is received, the school district superintendent receiving an
18 application shall act on it, notify the parent or legal
19 guardian of the value of the voucher and issue the voucher if
20 the application is approved.

21 E. The voucher shall be issued to the student by
22 July 1 in the care of the student's parent or legal guardian.
23 The voucher shall not be issued to the school district
24 containing the public school that the student chooses to
25 attend.

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

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

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

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

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

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1 B. The school district that issued the voucher
2 shall pay installments of twenty-five percent of the value of
3 the voucher on the first day of September, November, February
4 and May to the public school presenting the voucher.

5 C. If a parent or legal guardian disenrolls a
6 student from one public school and enrolls the student in
7 another public school during the school year, the parent or
8 legal guardian shall, in writing, notify the local school
9 district. Upon proof of enrollment in another public school,
10 the remaining redemption installments shall be made to the
11 school district in which the public school is located."

12 Section 8. Section 22-1-4 NMSA 1978 (being Laws 1975,
13 Chapter 338, Section 1, as amended by Laws 2000, Chapter 15,
14 Section 1 and also by Laws 2000, Chapter 82, Section 1) is
15 amended to read:

16 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING
17 AND ENROLLING--OPEN ENROLLMENT.--

18 A. Except as provided by Section 24-5-2 NMSA 1978,
19 a free public school education shall be available to any
20 school-age person who is a resident of this state and has not
21 received a high school diploma or its equivalent.

22 B. A free public school education in those courses
23 already offered to persons pursuant to the provisions of
24 Subsection A of this section shall be available to any person
25 who is a resident of this state and has received a high school

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1 diploma or its equivalent if there is available space in such
2 courses.

3 C. Any person entitled to a free public school
4 education pursuant to the provisions of this section may
5 enroll or re-enroll in a public school at any time and, unless
6 required to attend school pursuant to the Compulsory School
7 Attendance Law, may withdraw from a public school at any time.

8 D. In adopting and promulgating rules concerning
9 the enrollment of students transferring from a home school or
10 private school to the public schools, the local school board
11 shall provide that the grade level at which the transferring
12 student is placed is appropriate to the age of the student or
13 to the student's score on a student achievement test
14 administered according to the statewide and local school
15 district testing programs as determined by the state
16 superintendent or both.

17 E. A local school board shall adopt and promulgate
18 rules governing enrollment and re-enrollment at public schools
19 other than charter schools within the district. These rules
20 shall include:

21 (1) definition of the district boundary and
22 the boundaries of attendance areas for each public school;

23 (2) for each public school, definition of the
24 boundaries of areas outside the district boundary or within
25 the district but outside the public school's attendance area

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1 and within a distance of the public school that would not be
2 served by a school bus route as determined pursuant to Section
3 22-16-4 NMSA 1978 if enrolled, which areas shall be designated
4 as "walk zones";

5 ~~[(3) priorities for enrollment of students as~~
6 ~~follows:~~

7 ~~(a) first, persons residing within the~~
8 ~~district and within the attendance area of a public school;~~

9 ~~(b) second, persons who previously~~
10 ~~attended the public school; and~~

11 ~~(c) third, all other applicants; and~~

12 ~~(4)] (3) establishment of maximum allowable~~
13 ~~class size if smaller than that permitted by law; and~~

14 (4) rules pertaining to grounds for denial of
15 enrollment or re-enrollment at schools within the school
16 district and the school district's hearing and appeals process
17 for such a denial. Grounds for denial of enrollment or re-
18 enrollment shall be limited to:

19 (a) a student's expulsion from any
20 school district in this state or any other state during the
21 preceding twelve months; or

22 (b) a student's behavior in another
23 school district in this state or any other state during the
24 preceding twelve months that is detrimental to the welfare or
25 safety of other students or school personnel

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1 ~~[F. As long as the maximum allowable class size~~
2 ~~established by law or by rule of a local school board,~~
3 ~~whichever is lower, is not met or exceeded in a public school~~
4 ~~by enrollment of first priority persons, the public school~~
5 ~~shall enroll other persons applying in the priorities stated~~
6 ~~in the district rules adopted pursuant to Subsection E of this~~
7 ~~section. If the maximum would be exceeded by enrollment of an~~
8 ~~applicant in the second or third priority, the school shall~~
9 ~~establish a waiting list. As classroom space becomes~~
10 ~~available, persons highest on the waiting list within the~~
11 ~~highest priority on the list shall be notified and given the~~
12 ~~opportunity to enroll]. "~~

13 Section 9. Section 22-12-5 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 172, as amended) is amended to read:

15 "22-12-5. SCHOOL ATTENDANCE. --

16 A. Local school boards ~~[may]~~ shall admit school-
17 age persons who do not live within the school district to the
18 public schools within the school district ~~[when there are~~
19 ~~sufficient school accommodations to provide for them].~~

20 B. Local school boards ~~[may]~~ shall permit school-
21 age persons to transfer to a school outside the child's
22 attendance zone but within the school district ~~[when there are~~
23 ~~sufficient school accommodations to provide for them].~~

24 C. Local school boards may charge a tuition fee
25 for the right to attend public school within the school

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1 district only to those school-age persons who do not live
2 within the state. The tuition fee shall not exceed the amount
3 generated by the public school fund for a school-age person
4 similarly situated within the school district for the current
5 school year.

6 D. When the parent or guardian of a student not
7 living in the state pays an ad valorem property tax for school
8 purposes within the district, the amount of the tuition
9 payable for the school year shall be reduced by the district
10 average ad valorem tax per pupil as determined by the ad
11 valorem tax credit utilized in calculating state equalization
12 guarantee distribution. "