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SENATE BILL 127

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

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

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

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

**" [NEW MATERIAL] DEFINITIONS. -- As used in the Student
Alternatives Act:**

A. "board" means the student alternatives board;

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1 B. "department" means the department of finance
2 and administration;

3 C. "school alternative" means a:

4 (1) governmental entity, including the New
5 Mexico youth conservation corps, a public school or a charter
6 school, that enters into a contract with the department to
7 provide alternative educational opportunities for students;

8 (2) secondary school located in New Mexico,
9 operated by an Indian nation, tribe or pueblo or by the bureau
10 of Indian affairs of the United States department of the
11 interior; or

12 (3) nonprofit corporation or for-profit
13 corporation that contracts with the department to provide
14 alternative educational opportunities for students; and

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

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

22 "NEW MATERIAL] PILOT PROJECT--ALTERNATIVE EDUCATION.--

23 A. The department shall solicit proposals for a
24 pilot program to provide alternative educational opportunities
25 for students statewide, with special consideration given to

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1 proposals to serve the fifteen high schools with the highest
2 annual dropout rates in the state as determined by the
3 department of education. The department shall evaluate
4 responses to its solicitation for proposals and provide
5 recommendations to the board. In addition, the department
6 shall monitor the performance of school alternatives.

7 B. The pilot program shall run until June 1,
8 2005. "

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

11 "[NEW MATERIAL] ALTERNATIVE EDUCATION--STUDENTS. --

12 A. The department shall enter into a contract with
13 each school alternative to provide educational services for
14 students. The contract shall contain a provision that
15 provides for a salary increase for a teacher employed at a
16 school alternative whose students show exemplary improvement
17 in academic achievement or attendance. The contract shall
18 also contain a provision that provides more funding to a
19 school alternative whose students, based on an independent
20 analysis, demonstrate exemplary academic achievement and
21 attendance.

22 B. Students enrolled in a school alternative shall
23 be held to the graduation requirements provided in Section
24 22-2-8.4 NMSA 1978. School alternatives shall provide
25 students with transcripts.

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1 C. School alternatives may contract for services,
2 including transportation, emergency medical services, food
3 services and security, necessary to provide educational
4 services to students.

5 D. A school alternative may operate on the same
6 site as a public school.

7 E. Except as provided in Section 22-10-3.3 NMSA
8 1978, school alternatives shall be exempt from the
9 requirements of the School Personnel Act.

10 F. School alternatives shall maintain records of
11 student attendance, retention, academic achievement and the
12 number of students who pass the New Mexico high school
13 competency exam.

14 G. School alternatives shall be evaluated by the
15 board on the basis of student attendance, retention, academic
16 achievement and the number of students who pass the New Mexico
17 high school competency examination.

18 H. School alternatives shall enroll no less than
19 one hundred students and no more than two hundred students.

20 I. Each student attending a school alternative
21 shall generate a funding amount equal to the amount that would
22 be determined for the student through the state equalization
23 guarantee distribution in the local school district, excluding
24 any size or training and experience adjustments, plus an
25 amount for transportation expenses as determined by the

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1 department. In no case shall the department distribute more
2 than five thousand dollars (\$5,000) to the school alternative
3 for an individual student. "

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

6 "[NEW MATERIAL] BOARD-- FUNDING. --

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

8 B. The board shall be comprised of:

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

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

13 (3) two representatives of Indian nations,
14 tribes or pueblos located in New Mexico to be appointed by the
15 executive director of the New Mexico office of Indian affairs;

16 (4) two representatives of the business
17 community to be appointed by the governor;

18 (5) two members of the state board of
19 education to be appointed by the president of the state board
20 of education; and

21 (6) three members of the education community
22 to be appointed by the governor.

23 C. The members of the board shall:

24 (1) elect a president, secretary and
25 treasurer; and

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1 (2) adopt such rules as may be necessary and
2 appropriate to implement the Student Alternatives Act,
3 including rules providing for:

4 (a) the application process for
5 entities that seek to operate school alternatives;

6 (b) school alternative contracts;

7 (c) the admission process for students
8 who attend school alternatives;

9 (d) the health and safety of students
10 who attend school alternatives;

11 (e) the terms and conditions of
12 employment of employees of school alternatives;

13 (f) the disbursement of funds to school
14 alternatives; and

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

17 D. The department shall staff the board.

18 E. The board shall:

19 (1) review proposals submitted by applicants
20 to become school alternatives;

21 (2) allocate funding to the school
22 alternatives selected;

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

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1 (4) evaluate the performance of school
2 alternatives.

3 F. The board shall report annually to the state
4 board, the legislative finance committee, the legislative
5 education study committee and the office of the governor prior
6 to October 15. "

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

9 "[NEW MATERIAL] APPLICATION TO OPERATE A SCHOOL
10 ALTERNATIVE. --

11 A. The application process to operate a school
12 alternative shall require the applying entity to provide
13 information, including the:

14 (1) identity of the applying entity;

15 (2) name and location of the school
16 alternative;

17 (3) academic focus and curriculum of the
18 school alternative;

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

21 (5) school year for the school alternative;

22 (6) target population of students that the
23 school alternative will be designed to serve;

24 (7) projected enrollment of students at the
25 school alternative;

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1 (8) composition, qualifications and method of
2 selection of the governing body of the school alternative;

3 (9) qualifications and areas of expertise of
4 persons who will provide services to students at the school
5 alternative;

6 (10) strategies for achieving parental and
7 community involvement in the operation of the school
8 alternative; and

9 (11) proposed budget for each school year of
10 the school alternative contract.

11 B. If the board denies an application for a school
12 alternative, the board shall provide the unsuccessful
13 applicant with a written statement explaining the basis for
14 the denial. An unsuccessful applicant for a school
15 alternative may reapply. "

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

18 "[NEW MATERIAL] SCHOOL ALTERNATIVE CONTRACTS. --

19 A. If the board approves an application for a
20 school alternative, the department and the successful
21 applicant shall enter into a school alternative contract.

22 B. There shall be a provision in the school
23 alternative contract establishing criteria for evaluating the
24 performance of the school alternative, which shall include
25 the:

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

3 (2) financial management of the school
4 alternative. "

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

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

9 A. A school alternative shall:

10 (1) comply with the provisions of the Student
11 Alternatives Act, the rules adopted by the board and the
12 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, 22-10-4 and
19 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

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1 alternative.

2 B. A school alternative shall comply with the
3 rules of the state board regarding content standards and
4 benchmarks. "

5 Section 9. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] ADMISSION OF STUDENTS TO SCHOOL
8 ALTERNATIVES. --

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

11 (1) qualifies as a student pursuant to the
12 Student Alternatives Act and the rules adopted by the board;
13 and

14 (2) complies with the application process
15 established by the board.

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

22 C. A school alternative may:

23 (1) limit admission to a targeted population
24 of students; provided that such limitation may not
25 discriminate on the basis of race, national origin, gender or

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1 religion; and

2 (2) give priority for admission to students
3 who were enrolled in the school alternative during the
4 previous school year. "

5 Section 10. Section 22-10-3.3 NMSA 1978 (being Laws
6 1997, Chapter 238, Section 1, as amended) is amended to read:

7 "22-10-3.3. BACKGROUND CHECKS. --

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

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1 record.

2 B. Local school boards and the student
3 alternatives board shall develop policies and procedures to
4 require background checks on an applicant who has been offered
5 employment, a contractor or a contractor's employee with
6 unsupervised access to students at a public school, including
7 a charter school or school alternative. An applicant for
8 employment who has been initially certified within twelve
9 months of applying for employment with a local school board,
10 [~~or~~] a charter school or a school alternative shall not be
11 required to submit to another background check if the
12 department of education has copies of his federal bureau of
13 investigation records on file. An applicant who has been
14 offered employment, a contractor or a contractor's employee
15 with unsupervised access to students at a public school,
16 including a charter school or school alternative, shall
17 provide two fingerprint cards or the equivalent electronic
18 fingerprints to the local school board or student alternatives
19 board to obtain his federal bureau of investigation record.
20 The applicant who has been offered employment, contractor or
21 contractor's employee with unsupervised access to students at
22 a public school, including a charter school or school
23 alternative, may be required to pay for the cost of obtaining
24 a background check. At the request of a local school board,
25 [~~or~~] charter school or student alternatives board, the

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1 department of education is authorized to release copies of
2 federal bureau of investigation records that are on file with
3 the department of education and that are not more than twelve
4 months old. Convictions of felonies or misdemeanors contained
5 in the federal bureau of investigation record shall be used in
6 accordance with the Criminal Offender Employment Act; provided
7 that other information contained in the federal bureau of
8 investigation record, if supported by independent evidence,
9 may form the basis for the employment decisions for good and
10 just cause. Records and [~~any~~] related information shall be
11 privileged and shall not be disclosed to a person not directly
12 involved in the employment decision affecting the specific
13 applicant who has been offered employment, contractor or
14 contractor's employee with unsupervised access to students at
15 a public school, including a charter school or school
16 alternative.

17 C. The department of education shall implement the
18 provisions of Subsection A of this section on or before
19 July 1, 1998. "

20 Section 11. APPROPRIATION.--Three million dollars
21 (\$3,000,000) is appropriated from the general fund to the
22 department of finance and administration for expenditure in
23 fiscal year 2002 for the purpose of carrying out the
24 provisions of the Student Alternatives Act. No more than
25 twenty-five percent per year of any appropriation may be

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1 used to contract with any one school alternative. Any
2 unexpended or unencumbered balance remaining at the end of
3 fiscal year 2002 shall revert to the general fund.

4 Section 12. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.

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