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SENATE BILL 570

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

INTRODUCED BY

William E. Sharer

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 "Parental Empowerment 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) every family in New Mexico should have

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

3 (2) providing families in New Mexico a choice  
4 between schools leads to competition that benefits students  
5 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) low-income families should not be denied  
11 educational choices for their school-age children.

12 B. The purpose of the Parental Empowerment Act is  
13 to establish a voucher program that provides New Mexico's  
14 students the opportunity to attend their choice of public or  
15 private schools in order to best suit their individual needs  
16 and 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 Parental  
20 Empowerment Act:

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

24 B. "federal poverty guidelines" means the level of  
25 income defining poverty by family size published annually in

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1 the federal register by the United States department of health  
2 and human services;

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

5 D. "program" means the parental empowerment  
6 program; and

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

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

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

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

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

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

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

25 Section 5. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

3 A. A student who is a resident of a class A or B  
4 county in New Mexico and is at least five years of age prior  
5 to 12:01 a.m. September 1 of the school year or is a  
6 developmentally disabled three- or four-year-old child is  
7 eligible to participate in the program if his family income is  
8 at or below one hundred eighty-five percent of the federal  
9 poverty guidelines.

10 B. A student who receives a voucher pursuant to  
11 the Parental Empowerment Act shall participate in the testing  
12 required by Subsection B of Section 22-1-6 NMSA 1978. The  
13 testing shall be administered by the school district in which  
14 the student who receives the voucher resides. "

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

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

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

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

22 (2) maintain or develop antidiscrimination  
23 policies to prevent discrimination on the basis of race,  
24 color, national origin or ancestry; and

25 (3) develop policies that do not discriminate

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1 against students who are recipients of vouchers.

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

6 Section 7. 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 adopt specific, written  
13 standards for acceptance and rejection of vouchers provided  
14 for in the Parental Empowerment Act based on the capacity of a  
15 program, class size, grade level or school buildings.

16 C. Not earlier than March 1 and not later than  
17 July 1 prior to the beginning of a school year, a student's  
18 parent or legal guardian may apply to the local school  
19 district superintendent to participate in the program. The  
20 local school district superintendent may waive the application  
21 deadline. The application shall contain the following  
22 information:

- 23 (1) the student's name and address;  
24 (2) the student's date of birth;  
25 (3) the student's social security number;

1 (4) the student's school attendance zone;

2 (5) the student's grade level;

3 (6) the name and address of the student's  
4 parent or legal guardian who is residing with the child;

5 (7) for a parent or legal guardian who  
6 resides with the student at the student's principal residence,  
7 when required by the local school district superintendent,  
8 proof of income eligibility through copies of:

9 (a) the student's, parent's or legal  
10 guardian's three most recent paycheck receipts for all  
11 employment;

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

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

19 (8) whether the student was enrolled in a  
20 class A, B, C or D special education program in the prior  
21 school year or, for a child entering school for the first  
22 time, whether the child has a diagnosed developmental  
23 disability or learning disorder;

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

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1 (10) the name, tuition, fees and address of  
2 the public or private school to which the student intends to  
3 apply.

4 D. No later than forty-five days after the  
5 application is received, the local school district  
6 superintendent shall act on the application, notify the parent  
7 or legal guardian of the value of the voucher and issue the  
8 voucher if the application is approved.

9 E. The voucher shall be issued to the student in  
10 the care of the student's parent or legal guardian. The  
11 voucher shall not be issued to the private school or school  
12 district containing the public school that the student chooses  
13 to attend.

14 F. The student and his parent or legal guardian  
15 shall solely select the public or private school the student  
16 chooses to attend. The state shall not decide which school a  
17 student may attend. The state shall not advise or influence  
18 the student's selection of a school.

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

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

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

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1           A. The value of the voucher shall be equal to the  
2 amount of money generated by the student through the state  
3 equalization guarantee distribution provided in the Public  
4 School Finance Act and a proportionate per student amount for  
5 transportation expenses if the student had attended a public  
6 school in his school attendance zone. The value of the  
7 voucher shall also include a proportionate allocation for the  
8 local school district's at-risk funding. The department of  
9 education shall calculate the value of a student's voucher  
10 using the state equalization guarantee distribution formula.

11           B. Subject to the value of the voucher set forth  
12 in Subsection A of this section, the voucher redemption value  
13 shall not exceed the tuition and fees charged by a private  
14 school for students not participating in the program unless  
15 the cost of educating the student presenting the voucher is  
16 greater than the tuition and fees charged, in which case the  
17 value of the voucher shall not exceed those costs.

18           C. Within fifteen days after receiving a voucher,  
19 a private school shall, in writing, certify the enrollment of  
20 the student named on the voucher and shall, in writing,  
21 certify the amount of tuition and fees charged by the private  
22 school to the department of education.

23           D. A private school or public school district  
24 located outside of the student's attendance zone shall redeem  
25 the value of the voucher from the local school district in the



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1 following installments: twenty-five percent of the value  
2 determined in Subsection A of this section in September,  
3 twenty-five percent of the value determined in Subsection A of  
4 this section in November, twenty-five percent of the value  
5 determined in Subsection A of this section in February and  
6 twenty-five percent of the value determined in Subsection A of  
7 this section in May. The installments shall be paid on the  
8 first day of the applicable month.

9 E. If a private school disenrolls a student during  
10 the school year or if the student is absent for ten  
11 consecutive days without explanation from his parent or legal  
12 guardian, the private school shall, in writing, notify the  
13 local school district, and the voucher redemption shall cease.

14 F. If a parent or legal guardian disenrolls a  
15 student from a private school and enrolls the student in  
16 another private school or in a public school during the school  
17 year, the parent or legal guardian shall, in writing, notify  
18 the local school district. Upon receipt of proof of  
19 enrollment in another private school and certification of  
20 tuition and fees charged by the new private school, the  
21 remaining scholarship redemption installments shall be made to  
22 the new private school. Upon proof of enrollment in a public  
23 school, the remaining redemption installments shall be made to  
24 the school district in which the public school is located."

25 Section 9. Section 22-8-2 NMSA 1978 (being Laws 1978,

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1 Chapter 128, Section 3, as amended) is amended to read:

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

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

5 B. "membership" means the total enrollment of  
6 qualified students on the current roll of a class or school on  
7 a specified day and all students who have qualified for  
8 receipt of vouchers pursuant to the Parental Empowerment Act.

9 The current roll is established by the addition of original  
10 entries and reentries minus withdrawals. Withdrawals of  
11 students, in addition to students formally withdrawn from the  
12 public school, include students absent from the public school  
13 for as many as ten consecutive school days;

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

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

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

25 F. "early childhood education ADM" or "early

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1 childhood education MEM' means the full-time-equivalent MEM of  
2 students attending approved early childhood education  
3 programs;

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

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

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

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

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

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1 for public use;

2 M "qualified student" means a public school  
3 student who:

4 (1) has not graduated from high school;

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

8 (3) is at least five years of age prior to  
9 12:01 a.m. on September 1 of the school year; or

10 (4) is at least three years of age at any  
11 time during the school year and is receiving special education  
12 services pursuant to ~~[regulation]~~ rule of the state board; or

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

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