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SENATE BILL 251

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

William E. Sharer

AN ACT

**RELATING TO EDUCATION; PROVIDING ELEMENTARY AND SECONDARY
EDUCATION REFORMS; CHANGING SCHOOL ENROLLMENT PRIORITY TO
INCLUDE STUDENTS FROM PROBATIONARY OR NEEDS-IMPROVEMENT
SCHOOLS; REQUIRING ANNUAL CRITERION-REFERENCED READING AND
MATHEMATICS TESTING IN GRADES THREE THROUGH EIGHT; REQUIRING A
STATE-ISSUED STUDENT IDENTIFICATION NUMBER; REQUIRING BEFORE-
OR AFTER-SCHOOL TUTORING FOR STUDENTS WHO FAIL TO ATTAIN
GRADE-LEVEL PROFICIENCY; ENACTING THE ELEMENTARY AND SECONDARY
SCHOOL VOUCHER ACT; INCREASING THE NUMBER OF CONVERSION
CHARTER SCHOOLS; CLARIFYING CHARTER SCHOOL ACCESS TO SCHOOL
DISTRICT PROPERTY AND COSTS FOR USING SUCH PROPERTY;
DECREASING THE TIME FOR APPROVAL OF CHARTER SCHOOLS; ALLOWING
CONVERSION SCHOOLS TO CONTINUE TO USE THEIR FACILITIES AND
EQUIPMENT; PROVIDING LIMITED RECIPROCITY FOR OUT-OF-STATE
TEACHERS AND SCHOOL ADMINISTRATORS; ENACTING THE TEACHER MERIT**

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1 PAY ACT; CREATING A COMMITTEE; PROVIDING POWERS AND DUTIES;
2 REQUIRING SCHOOL DISTRICTS TO NOTIFY EMPLOYEES OF CERTAIN
3 RIGHTS REGARDING USE OF COLLECTED UNION DUES; ALLOWING PERSONS
4 WHO HAVE COMPLETED TENTH GRADE TO TEST OUT OF COMPULSORY
5 SCHOOL ATTENDANCE; ELIMINATING THE MULTIPLE LIST OF
6 INSTRUCTIONAL MATERIALS; ALLOWING PUBLIC AND PRIVATE SCHOOLS,
7 STATE INSTITUTIONS AND ADULT BASIC EDUCATION CENTERS TO SELECT
8 THEIR INSTRUCTIONAL MATERIALS; ALLOWING PARENTS TO CHOOSE AN
9 ENGLISH IMMERSION PROGRAM FOR THEIR NON- ENGLISH- SPEAKING OR
10 LIMITED- ENGLISH- PROFICIENT SCHOOL- AGE CHILD; AMENDING,
11 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN
12 APPROPRIATION.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 Section 1. Section 22- 1- 4 NMSA 1978 (being Laws 1975,
16 Chapter 338, Section 1, as amended by Laws 2001, Chapter 239,
17 Section 1 and by Laws 2001, Chapter 244, Section 1) is amended
18 to read:

19 "22- 1- 4. FREE PUBLIC SCHOOLS-- EXCEPTIONS-- WITHDRAWING
20 AND ENROLLING-- OPEN ENROLLMENT. --

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

25 B. A free public school education in those courses

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1 already offered to persons pursuant to the provisions of
2 Subsection A of this section shall be available to any person
3 who is a resident of this state and has received a high school
4 diploma or its equivalent if there is available space in such
5 courses.

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

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

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

24 (1) definition of the school district
25 boundary and the boundaries of attendance areas for each

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1 public school;

2 (2) for each public school, definition of the
3 boundaries of areas outside the school district or private
4 school boundary or within the school district but outside the
5 public school's attendance area and within a distance of the
6 public school that would not be served by a school bus route
7 as determined pursuant to Section 22-16-4 NMSA 1978 if
8 enrolled, which areas shall be designated as "walk zones";

9 (3) priorities for enrollment of students as
10 follows:

11 (a) first, persons residing within the
12 school district and within the attendance area of a public
13 school;

14 (b) second, students from a
15 probationary or needs-improvement school who are not at grade-
16 level proficiency;

17 [~~(b)—second~~] (c) third, persons who
18 previously attended the public school; and

19 [~~(c)—third~~] (d) fourth, all other
20 applicants;

21 (4) establishment of ~~maximum~~ allowable class
22 size if ~~smaller~~ than that permitted by law; and

23 (5) rules pertaining to grounds for denial of
24 enrollment or re-enrollment at schools within the school
25 district and the school district's hearing and appeals process

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1 for such a denial. Grounds for denial of enrollment or
2 re-enrollment shall be limited to:

3 (a) a student's expulsion from any
4 school district or private school in this state or any other
5 state during the preceding twelve months; or

6 (b) a student's behavior in another
7 school district or private school in this state or any other
8 state during the preceding twelve months that is detrimental
9 to the welfare or safety of other students or school
10 personnel.

11 F. In adopting and promulgating rules governing
12 enrollment and re-enrollment at public schools other than
13 charter schools within the district, a local school board may
14 establish additional enrollment preferences for rules
15 admitting students in accordance with the second [~~and third~~]
16 through fourth priorities of enrollment set forth in
17 Subparagraphs (b) [~~and (c)~~] through (d) of Paragraph (3) of
18 Subsection E of this section. The additional enrollment
19 preferences may include:

- 20 (1) after-school child care for students;
21 (2) child care for siblings of students
22 attending the public school;
23 (3) children of employees employed at the
24 public school;
25 (4) extreme hardship;

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1 (5) location of a student's previous school;

2 (6) siblings of students already attending
3 the public school; and

4 (7) student safety.

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

17 Section 2. Section 22-1-6 NMSA 1978 (being Laws 1989,
18 Chapter 308, Section 1, as amended) is amended to read:

19 "22-1-6. ANNUAL SCHOOL DISTRICT ACCOUNTABILITY REPORT
20 REQUIRED. --

21 A. School districts are required to publish an
22 annual school district accountability report to provide
23 district-wide data for the previous school year. The state
24 board shall establish the format for the accountability
25 reports and ensure that the relevant data is provided annually

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1 to parents, students, educators, policymakers, legislators,
2 the governor and business and economic development
3 organizations. The department of education shall establish
4 the following five indices through which public school
5 performance shall be measured and reported to school
6 districts:

7 (1) student achievement as measured by a
8 nationally norm-referenced test approved by the department of
9 education or through a performance-based instrument to measure
10 proficiency;

11 (2) school safety;

12 (3) the dropout rate;

13 (4) attendance; and

14 (5) parent and community involvement.

15 B. The department of education shall establish the
16 methodology for measuring each of the five indices.

17 [~~B. Effective July 1, 1999~~] C. School districts
18 shall annually administer a nationally norm-referenced test or
19 a standards-based assessment to all students enrolled in a
20 public school in grades three through nine. Only students
21 with disabilities deemed incapable of taking the test as
22 determined on their individual educational programs shall be
23 exempted from this requirement. Students who have been
24 assessed as non-English or limited English proficient using
25 state approved language assessments and meeting required

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1 thresholds shall be exempted from this test and provided an
2 alternative norm-referenced or standards-based assessment in
3 their primary language. School districts shall report the
4 following to the department of education:

5 (1) the results of the norm-referenced test
6 or standards-based assessment;

7 (2) the number of enrolled students who did
8 not take the test, the school in which they are enrolled and
9 the reason for the exemption from the test; and

10 (3) separately and as part of the aggregate
11 report, the results of assessments of students enrolled in
12 special education class A, B, C and D programs who took the
13 test and the school in which they are enrolled, except in
14 cases where the number of students being reported is less than
15 ten.

16 [~~C.~~] D. School districts shall set two-, four- and
17 six-year benchmarks in each of the five indices for each
18 public school. Local school boards may establish additional
19 indices, if reviewed by the department of education, through
20 which to measure the school district's performance in other
21 areas.

22 E. School districts shall annually administer and
23 report department-of-education-approved criterion-referenced
24 tests for reading and mathematics in grades three through
25 eight.

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1 ~~[D-]~~ F. The annual accountability report shall
2 also include the results of a survey of parents' views of the
3 quality of their children's school. The survey shall be
4 conducted each year in time to include the results in the
5 annual accountability report. The survey shall compile the
6 results of a written questionnaire that shall be sent home
7 with the students to be given to their parents. The survey
8 may be completed anonymously. The survey shall be no more
9 than one page, shall be clearly and concisely written and
10 shall include not more than twenty questions that shall be
11 answered with options of a simple sliding scale ranging from
12 "strongly agree" to "strongly disagree" and shall include the
13 optional response "don't know". The survey shall also include
14 a request for optional written comments, which may be written
15 on the back of the questionnaire form. The questionnaire
16 shall include questions in the following areas:

- 17 (1) parent-teacher-school relationship and
18 communication;
- 19 (2) quality of educational and
20 extracurricular programs;
- 21 (3) instructional practices and techniques;
- 22 (4) resources;
- 23 (5) school personnel, including the school
24 principal; and
- 25 (6) parents' view of teaching staff

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1 expectations for the students.

2 G. The state board shall develop no more than ten
3 of the questions, which shall be reviewed by the legislative
4 education study committee prior to implementation. No more
5 than five questions shall be developed by the local school
6 board and no more than five questions shall be developed by
7 the staffs of each individual school site; provided that at
8 least half of those questions shall be developed by teachers
9 rather than administrators, in order to gather information
10 that is specific to the particular community surveyed. The
11 questionnaires shall indicate the public school site and shall
12 be tabulated by the department of education within thirty days
13 of receipt and shall be returned to the respective schools to
14 be disseminated to all parents.

15 [~~E.~~] H. The annual accountability report shall
16 also include a report of all federal funds distributed
17 directly to the school district or received by the district
18 from the department of education. For each distribution, the
19 purpose for which the money was received shall be stated with
20 a detailed accounting of the purposes for which the funds were
21 expended.

22 [~~F.~~] I. The annual accountability report for each
23 school district shall be adopted by the local school board,
24 may be published no later than November 15 of each year and
25 may be published at least once each school year in a newspaper

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1 of general circulation in the county where the school district
2 is located. In publication, the report shall be titled "The
3 School District Report Card" and disseminated in accordance
4 with guidelines established by the state board to ensure
5 effective communication with parents, students, educators,
6 local policymakers and business and community organizations.

7 ~~[G.]~~ J. The department of education shall create
8 an accountability data system through which data from each
9 public school and each school district may be compiled and
10 reviewed. The department of education shall provide the
11 resources to train school district personnel in the use of the
12 accountability data system.

13 ~~[H.]~~ K. The department of education shall verify
14 data submitted by the school districts.

15 ~~[I.]~~ L. The state board shall measure the
16 performance of every public school in New Mexico. Public
17 schools achieving the highest level of performance shall be
18 eligible for supplemental incentive funding. The state board
19 shall establish the corrective actions and interventions
20 necessary for public schools whose performance level is low.

21 ~~[J.]~~ M. The school district shall submit a copy of
22 its annual accountability report to the legislative finance
23 committee, the legislative education study committee and the
24 library of the legislative council service. "

25 Section 3. Section 22-2-2 NMSA 1978 (being Laws 1967,

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1 Chapter 16, Section 5, as amended by Laws 2001, Chapter 286,
2 Section 1 and by Laws 2001, Chapter 299, Section 5) is amended
3 to read:

4 "22-2-2. STATE BOARD--DUTIES.--Without limiting those
5 powers granted to the state board pursuant to Section 22-2-1
6 NMSA 1978, the state board shall perform the following 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 state,
11 including vocational programs that are part of a juvenile
12 construction industries initiative for juveniles who are
13 committed to the custody of the children, youth and families
14 department;

15 C. appoint a state superintendent;

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

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

23 F. assess and evaluate all state institutions and
24 those private schools that desire state accreditation;

25 G. determine the qualifications for and issue a

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1 certificate to any person teaching, assisting teachers,
2 supervising an instructional program, counseling, providing
3 special instructional services or administering in public
4 schools according to law and according to a system of
5 classification adopted and published by the state board;

6 H. suspend or revoke a certificate held by a
7 certified school instructor or certified school administrator
8 according to law for incompetency, immorality or any other
9 good and just cause;

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

12 J. prescribe courses of instruction, requirements
13 for graduation and standards for all public schools, for
14 private schools seeking state accreditation and for the
15 educational programs conducted in state institutions other
16 than the New Mexico military institute;

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

19 L. require periodic reports on forms prescribed by
20 it from all public schools and attendance reports from private
21 schools;

22 M. authorize adult educational programs to be
23 conducted in schools under its jurisdiction and adopt and
24 promulgate rules governing all such adult educational
25 programs;

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1 N. require any school under its jurisdiction that
2 sponsors athletic programs involving sports to mandate that
3 the participating student obtain catastrophic health and
4 accident insurance coverage, such coverage to be offered
5 through the school and issued by an insurance company duly
6 licensed pursuant to the laws of New Mexico;

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

9 P. accept and receive all grants of money from the
10 federal government or any other agency for public school
11 purposes and disburse the money in the manner and for the
12 purpose specified in the grant;

13 Q. require prior approval for any educational
14 program in a public school that is to be conducted, sponsored,
15 carried on or caused to be carried on by a private
16 organization or agency;

17 R. approve or disapprove all rules promulgated by
18 any association or organization attempting to regulate any
19 public school activity and invalidate any rule in conflict
20 with any rule promulgated by the state board. The state board
21 shall require any association or organization attempting to
22 regulate any public school activity to comply with the
23 provisions of the Open Meetings Act and be subject to the
24 inspection of the Public Records Act. The state board may
25 require performance and financial audits of any association or

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1 organization attempting to regulate any public school
2 activity. The state board shall have no power or control over
3 the rules or the bylaws governing the administration of the
4 internal organization of the association or organization;

5 S. review decisions made by the governing board or
6 officials of any organization or association regulating any
7 public school activity, and any decision of the state board
8 shall be final in respect thereto;

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

12 U. establish and maintain regional centers, at its
13 discretion, for conducting cooperative services between public
14 schools and school districts within and among those regions
15 and to facilitate regulation and evaluation of school
16 programs;

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

25 W. provide for management and other necessary

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1 personnel to operate any public school or school district that
2 has failed to meet requirements of law, state board standards
3 or state board rules; provided that the operation of the
4 public school or school district shall not include any
5 consolidation or reorganization without the approval of the
6 local board of that school district. Until such time as
7 requirements of law, standards or rules have been met and
8 compliance is assured, the powers and duties of the local
9 school board shall be suspended;

10 X. establish and implement a plan that provides
11 for technical assistance to local school boards through
12 workshops and other in-service training methods; provided,
13 however, that no plan shall require mandatory attendance by
14 any member of a local school board;

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

18 Z. enforce requirements for home schools. Upon
19 finding that a home school is not in compliance with law, the
20 state board has authority to order that a student attend a
21 public school or a private school;

22 AA. develop a systemic framework for professional
23 development that provides training to ensure quality teachers
24 and principals and that improves and enhances student
25 achievement. The state board shall work with public school

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1 educators, the commission on higher education and institutions
2 of higher education to establish the framework. The framework
3 shall include:

4 (1) the criteria for school districts to
5 apply for professional development funds, including an
6 evaluation component that will be used by the department of
7 education in approving local school district professional
8 development plans; and

9 (2) guidelines for developing extensive
10 professional development activities for school districts,
11 including teaching strategies, curriculum materials, distance
12 learning networks and web sites to ensure that the state
13 board's rules pertaining to content standards and benchmarks
14 are used by New Mexico teachers;

15 BB. approve education curricula and programs
16 offered in [all] two-year public post-secondary educational
17 [~~institutions, including northern New Mexico state school,~~
18 ~~except those in Chapter 21, Article 12 NMSA 1978~~] institutions
19 that lead to certificates for alternative certification for
20 degree individuals pursuant to Section 22-10-3.5 NMSA 1978 or
21 certification for educational assistant; [and]

22 CC. withhold program approval from a college of
23 education or teacher preparation program that fails to offer a
24 course on teaching reading that:

25 (1) is based upon current research;

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1 (2) aligns with state board-adopted reading
2 standards;

3 (3) includes strategies and assessment
4 measures to ensure that beginning teachers are proficient in
5 teaching reading; and

6 (4) was designed after seeking input from
7 experts in the education field; and

8 DD. provide for the issuance of a state
9 identification number for each public school student for use
10 in the statewide student data management system. "

11 Section 4. Section 22-2-6.3 NMSA 1978 (being Laws 1986,
12 Chapter 94, Section 3, as amended) is amended to read:

13 "22-2-6.3. DEFINITIONS.--As used in the Public School
14 Insurance Authority Act:

15 A. "authority" means the public school insurance
16 authority;

17 B. "board" means the board of directors of the
18 public school insurance authority;

19 C. "charter school" means a school organized as a
20 charter school pursuant to the provisions of the 1999 Charter
21 Schools Act or the Charter Schools Act;

22 D. "director" means the director of the public
23 school insurance authority;

24 E. "educational entities" means state educational
25 institutions as enumerated in Article 12, Section 11 of the

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1 constitution of New Mexico and other state diploma, degree-
2 granting and certificate-granting post-secondary educational
3 institutions and regional education cooperatives;

4 F. "fund" means the public school insurance fund;

5 G. "group health insurance" means coverage that
6 includes life insurance, accidental death and dismemberment,
7 medical care and treatment, dental care, eye care and other
8 coverages as determined by the authority;

9 H. "risk-related coverage" means coverage that
10 includes property and casualty, general liability, auto and
11 fleet, workers' compensation and other casualty insurance; and

12 I. "school district" means a school district as
13 defined in Subsection K of Section 22-1-2 NMSA 1978, excluding
14 any school district with a student enrollment in excess of
15 sixty thousand students. "

16 Section 5. Section 22-2-8.4 NMSA 1978 (being Laws 1986,
17 Chapter 33, Section 5, as amended by Laws 2001, Chapter 257,
18 Section 1 and by Laws 2001, Chapter 276, Section 1) is amended
19 to read:

20 "22-2-8.4. GRADUATION REQUIREMENTS. --

21 A. At the end of the eighth grade or during the
22 ninth grade, each student shall prepare an individual program
23 of study for grades nine through twelve. The program of study
24 shall be signed by a student's parent or guardian.

25 B. Beginning with students entering the ninth

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1 grade in the 1986-87 school year, successful completion of a
2 minimum of twenty-three units shall be required for
3 graduation. These units shall be as follows:

4 (1) four units in English, with major
5 emphasis on grammar and literature;

6 (2) three units in mathematics;

7 (3) two units in science, one of which shall
8 have a laboratory component;

9 (4) three units in social science, which
10 shall include United States history and geography, world
11 history and geography, and government and economics;

12 (5) one unit in physical fitness;

13 (6) one unit in communication skills, with
14 major emphasis on writing and speaking, which may include a
15 language other than English; and

16 (7) nine elective units. Only the following
17 elective units shall be counted toward meeting the
18 requirements for graduation: fine arts, i. e., music, band,
19 chorus and art; practical arts; physical education; languages
20 other than English; speech; drama; vocational education;
21 mathematics; science; English; R. O. T. C.; social science;
22 computer science; health education; American sign language;
23 and other electives approved by the state board.

24 With the approval of the local school board,
25 participation on an athletic team or in an athletic sport

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1 during the school day may count toward fulfillment of the
2 physical education required unit.

3 C. Final examinations shall be administered to all
4 students in all classes offered for credit.

5 D. Except as provided in Section 22-12-2 NMSA
6 1978, no student shall receive a high school diploma who has
7 not passed a state graduation examination in the subject areas
8 of reading, English, math, writing, science and social
9 science. Beginning with the 1996-97 school year, the state
10 graduation examinations on social science shall include a
11 section on the constitution of the United States and the
12 constitution of New Mexico. If a student exits from the
13 school system at the end of grade twelve without having passed
14 a state graduation examination, he shall receive an
15 appropriate state certificate indicating the number of credits
16 earned and the grade completed. If within five years after a
17 student exits from the school system he takes and passes the
18 state graduation examination, he may receive a high school
19 diploma.

20 E. The state board may establish a policy to
21 provide for administrative interpretations to clarify
22 curricular and testing provisions of the Public School
23 Code. "

24 Section 6. Section 22-2-8.6 NMSA 1978 (being Laws
25 1986, Chapter 33, Section 7, as amended) is amended to read:

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1 "22-2-8.6. EDUCATIONAL CONTENT STANDARDS-- REMEDIATION
2 PROGRAMS-- PROMOTION POLICIES-- RESTRICTIONS. --

3 A. The state board shall identify educational
4 content standards as measured by the state assessment
5 program and establish performance levels of proficiency.
6 Remediation programs, academic improvement programs and
7 promotion policies shall be aligned with content standards
8 and based on the following:

- 9 (1) statewide assessment results;
- 10 (2) alternative school-district-determined
11 assessment results; and
- 12 (3) student performance in school.

13 B. Local school boards shall approve district-
14 developed remediation programs and academic improvement
15 programs to provide special instructional assistance to
16 students in grades one through eight who fail to attain a
17 level of proficiency established by the content standards.
18 The programs shall require individual tutoring before or
19 after school for every student who fails to attain grade-
20 level proficiency. The cost of remediation programs and
21 academic improvement programs shall be borne by the school
22 district. Remediation programs and academic improvement
23 programs shall be incorporated into the school district's
24 educational plan for student success and filed with the
25 department of education.

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1 C. The cost of summer and extended day
2 remediation programs and academic improvement programs,
3 including required individual tutoring before or after
4 school, offered in grades nine through twelve shall be borne
5 by the parent or guardian; however, where parents are
6 determined to be indigent according to guidelines
7 established by the state board, the local school [~~board~~]
8 district shall bear those costs.

9 D. Diagnosis of weaknesses identified by the
10 reading or writing performance assessment instrument
11 administered pursuant to Section 22-2-8.5 NMSA 1978 may
12 serve as criteria in assessing the need for remedial
13 programs or retention.

14 E. A parent or guardian shall be notified no
15 later than the end of the second grading period that his
16 child is failing to attain appropriate grade-level
17 proficiency in content standards, and a conference
18 consisting of the parent or guardian and the teacher shall
19 be held to discuss possible remediation programs available
20 to assist the student in attaining the required level of
21 proficiency established by the content standards. Specific
22 academic deficiencies and remediation strategies shall be
23 explained to the student's parent or guardian and a written
24 plan developed containing timelines, academic expectations
25 and the measurements to be used to verify that a student has

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1 overcome his academic deficiencies. Remediation programs
2 and academic improvement programs include tutoring, extended
3 day or week programs, summer programs and other research-
4 based models for student improvement.

5 F. At the end of grades one through seven, three
6 options are available, dependent on a student's attainment
7 of the required level of proficiency established by the
8 content standards:

9 (1) the student has attained the level of
10 proficiency required by the content standards and shall
11 enter the next higher grade;

12 (2) the student has not attained the
13 required level of proficiency and shall participate in the
14 required level of remediation. Upon certification by the
15 school district that the student has successfully overcome
16 his areas of deficiency, he shall enter the next higher
17 grade; or

18 (3) the student has not attained the level
19 of proficiency required by the content standards upon
20 completion of the prescribed remediation program and upon
21 the recommendation of the certified school instructor and
22 school principal shall either be:

23 (a) retained in the same grade for no
24 more than one school year with an academic improvement plan
25 developed by the student assistance team in order to attain

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1 proficiency of content standards, at which time the student
2 shall enter the next higher grade; or

3 (b) promoted to the next grade if the
4 parent or guardian refuses to allow his child to be retained
5 pursuant to Subparagraph (a) of this paragraph. In this
6 case, the parent or guardian shall sign a waiver indicating
7 his desire that the student be promoted to the next higher
8 grade with an academic improvement plan designed to address
9 specific academic deficiencies. The academic improvement
10 plan shall be developed by the student assistance team
11 outlining timelines and monitoring activities to ensure
12 progress toward overcoming those academic deficiencies.
13 Students failing to attain proficiency of content standards
14 at the end of that year shall then be retained in the same
15 grade for no more than one year in order to have additional
16 time to master the required content standards.

17 G. At the end of the eighth grade, a student who
18 fails to attain proficiency of content standards shall be
19 retained in the eighth grade for no more than one school
20 year in order to attain proficiency of content standards or
21 if the student assistance team determines that retention of
22 the student in the eighth grade will not assist the student
23 attain the appropriate level of academic achievement and
24 proficiency of standards, the team shall design a high
25 school graduation plan to meet the student's needs for entry

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1 into the work force or a post-secondary educational
2 institution. If a student is retained in the eighth grade,
3 the student assistance team shall develop a specific
4 academic improvement plan that clearly delineates the
5 student's academic deficiencies and prescribes a specific
6 remediation plan to address those academic deficiencies.

7 H. A student who fails to attain proficiency of
8 content standards for two successive school years shall be
9 referred to the student assistance team for placement in an
10 alternative program designed by the school district.
11 Alternative program plans shall be filed with the department
12 of education.

13 I. Promotion and retention decisions affecting a
14 student enrolled in special education shall be made in
15 accordance with the provisions of the individual educational
16 plan established for that student.

17 J. The school district shall establish a
18 reasonable hourly tutoring rate for tutors who provide
19 individual tutoring services for students who have not
20 attained grade-level proficiency.

21 [~~J.~~] K. For the purposes of this section:

22 (1) "academic improvement plan" means a
23 written document developed by the student assistance team
24 that describes the specific content standards required for a
25 certain grade level that a student has not achieved and that

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1 prescribes specific remediation programs such as summer
2 school, extended day or week school and tutoring;

3 (2) "alternative school-district-determined
4 assessment results" means the results obtained from student
5 assessments developed by a local school board and conducted
6 at an elementary grade level or middle school level;

7 (3) "educational plan for student success"
8 means a student-centered tool developed to define the role
9 of the academic improvement plan within the district that
10 addresses methods to improve a student's learning and
11 success in school and that identifies specific measures of a
12 student's progress;

13 (4) "statewide assessment results" means
14 the results obtained from the New Mexico achievement
15 assessment that is administered annually to grades three
16 through nine pursuant to state board rule; and

17 (5) "student assistance team" means a group
18 consisting of a student's:

19 (a) teacher;

20 (b) school counselor;

21 (c) school administrator; and

22 (d) parent or legal guardian."

23 Section 7. Section 22-8-2 NMSA 1978 (being Laws 1978,
24 Chapter 128, Section 3, as amended) is amended to read:

25 "22-8-2. DEFINITIONS.--As used in the Public School

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1 Finance Act:

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

3 B. "membership" means the total enrollment of
4 qualified students on the current roll of a class or school
5 on a specified day and includes students on the roll of that
6 class or school who have qualified for receipt of voucher
7 payments pursuant to the Elementary and Secondary School
8 Voucher Act. The current roll is established by the
9 addition of original entries and reentries minus
10 withdrawals. Withdrawals of students, in addition to
11 students formally withdrawn from the public school, include
12 students absent from the public school for as many as ten
13 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
21 of the school program to the cost of the basic program in
22 grades 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
2 of 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
7 the number of hours per school day devoted to the program to
8 six hours or the number of hours per school week devoted to
9 the 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
14 entitled multiplied by the dollar value per program unit
15 established by the legislature;

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

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

25 L. "public money" or "public funds" means all

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1 money from public or private sources received by a local
2 school board or officer or employee of a local school board
3 for public use;

4 M "qualified student" means a public school
5 student who:

6 (1) has not graduated from high school;

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

10 (3) is at least five years of age prior to
11 12:01 a.m. on September 1 of the school year; or

12 (4) is at least three years of age at any
13 time during the school year and is receiving special
14 education services pursuant to regulation of the state
15 board; or

16 (5) has not reached his twenty-second
17 birthday on the first day of the school year and is
18 receiving special education services pursuant to regulation
19 of the state board; and

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

22 Section 8. Section 22-8B-1 NMSA 1978 (being Laws 1999,
23 Chapter 281, Section 1) is amended to read:

24 "22-8B-1. SHORT TITLE. -- [~~Sections 1 through 15 of this~~
25 ~~act~~] Chapter 22, Article 8B NMSA 1978 may be cited as the

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1 "1999 Charter Schools Act". "

2 Section 9. Section 22-8B-4 NMSA 1978 (being Laws 1999,
3 Chapter 281, Section 4, as amended) is amended to read:

4 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND
5 RESPONSIBILITIES-- OPERATION. --

6 A. A charter school shall be subject to all
7 federal and state laws and constitutional provisions
8 prohibiting discrimination on the basis of disability, race,
9 creed, color, gender, national origin, religion, ancestry or
10 need for special education services.

11 B. A charter school shall be administered and
12 governed by a governing body in the manner set forth in the
13 charter.

14 C. A charter school shall be responsible for its
15 own operation, including preparation of a budget,
16 contracting for services and personnel matters.

17 D. A conversion school may choose to use the
18 school district facilities and equipment it had been using
19 prior to conversion. A charter school may [~~negotiate or~~]
20 contract with a local school district, a university or
21 college or any third party for the use of a facility, its
22 operation and maintenance and the provision of any service
23 or activity that the charter school is required to perform
24 in order to carry out the educational program described in
25 its charter.

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1 ~~[E. In no event shall a charter school be~~
2 ~~required to pay rent for space that is deemed available, as~~
3 ~~negotiated by contract, in school district facilities;~~
4 ~~provided that the facilities can be made available at no~~
5 ~~cost to the district. All costs for the operation and~~
6 ~~maintenance of the facilities used by the charter school~~
7 ~~shall be subject to negotiation between the charter school~~
8 ~~and the district.~~

9 ~~F. A charter school shall negotiate with a local~~
10 ~~school district to provide transportation to students~~
11 ~~eligible for transportation under the provisions of the~~
12 ~~Public School Code. The local school district, in~~
13 ~~conjunction with the charter school, may establish a limit~~
14 ~~for student transportation to and from the charter school~~
15 ~~site not to extend beyond the local school district~~
16 ~~boundary.~~

17 ~~G. A charter school may negotiate with a local~~
18 ~~school district for capital expenditures.]~~

19 E. A charter school shall not be required to pay
20 rent for school district facilities if they can be provided
21 at no cost to the school district. The charter school may
22 pay the costs of operation and maintenance of the facilities
23 or it may contract with the school district to provide
24 facility operation and maintenance services. If facilities
25 are available, but cannot be provided at no cost to the

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1 school district, the school district may charge no more than
2 the actual cost of providing the facilities.

3 F. Charter school facilities owned by a school
4 district or charter school are eligible for state and local
5 capital outlay funds and shall be included in the school
6 district's facilities master plan.

7 G. In accordance with the Public School Code, a
8 school district shall provide transportation to charter
9 school students who live in the school district and who are
10 eligible for transportation. The charter school shall
11 provide information required for the school district to
12 budget the cost of transporting charter school students.

13 H. A charter school shall be a nonsectarian,
14 nonreligious and non-home-based public school that operates
15 within a public school district.

16 I. Except as otherwise provided in the Public
17 School Code, a charter school shall not charge tuition or
18 have admission requirements.

19 J. A charter school shall be subject to the
20 provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

21 K. A charter school may acquire [~~pledge~~] and
22 dispose of property; provided that, upon termination of the
23 charter, all assets of the charter school shall revert to
24 the local school board that authorized the charter.

25 L. A charter school may accept or reject any

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1 charitable gift, grant, devise or bequest; provided that no
2 such gift, grant, devise or bequest shall be accepted if
3 subject to any condition contrary to law or to the terms of
4 the charter. The particular gift, grant, devise or bequest
5 shall be considered an asset of the charter school to which
6 it is given.

7 M A charter school may contract and sue and be
8 sued. A local school board that approves a charter school
9 shall not be liable for any acts or omissions of the charter
10 school.

11 N. A charter school shall comply with all state
12 and federal health and safety requirements applicable to
13 public schools. "

14 Section 10. Section 22-8B-6 NMSA 1978 (being Laws
15 1999, Chapter 281, Section 6) is amended to read:

16 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
17 PROCESS--AUTHORIZATION. --

18 A. The local school board shall have the
19 authority to approve the establishment of a charter school
20 within the local school district in which it is located.

21 B. A charter school applicant shall apply to a
22 local school board for a charter. An applicant shall only
23 submit an application in the school district in which the
24 school is located. Applications shall be submitted by
25 October 1 to be eligible for consideration for the following

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1 school year. The October 1 deadline may be waived upon
2 agreement of the applicant and the local school board.

3 C. An application for a start-up school may be
4 made by one or more teachers, parents or community members.

5 D. An application for a conversion school shall
6 include a petition of support signed by not less than sixty-
7 five percent of the employees in the school. Additionally,
8 a petition in support of the charter school signed by a
9 majority of the households whose children are enrolled in a
10 proposed conversion school must accompany the application.

11 E. The local school board shall receive and
12 review all applications for charter schools. The local
13 school board shall not charge application fees. If the
14 local school board finds the charter school application is
15 incomplete, the local school board shall request the
16 necessary information from the charter applicant.

17 F. The local school board shall hold at least
18 one meeting to obtain information and community input to
19 assist the local school board in its decision whether to
20 grant a charter school application. The local school board
21 shall rule on the application for a charter school in a
22 public meeting within [~~sixty~~] forty-five days after
23 receiving the application. If not ruled upon within [~~sixty~~]
24 forty-five days, the charter application will be
25 automatically reviewed by the state board in accordance with

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1 the provisions of Section [~~7 of the 1999 Charter Schools~~
2 ~~Act~~] 22-8B-7 NMSA 1978. The charter applicant and the local
3 school board may, however, jointly waive the deadlines set
4 forth in this section.

5 G. If the local school board denies a charter
6 school application or imposes conditions that are
7 unacceptable to the charter applicant, the charter applicant
8 may appeal the decision to the state board pursuant to
9 Section [~~7 of the 1999 Charter Schools Act~~] 22-8B-7 NMSA
10 1978.

11 H. If a local school board denies a charter
12 school application, it shall state its reasons for the
13 denial. If a local school board grants a charter, it shall
14 send a copy of the approved charter to the department of
15 education within fifteen days after granting the charter. "

16 Section 11. Section 22-8B-7 NMSA 1978 (being Laws
17 1999, Chapter 281, Section 7) is amended to read:

18 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--
19 PROCEDURES. --

20 A. The state board, upon receipt of a notice of
21 appeal or upon its own motion, shall review decisions of any
22 local school board concerning charter schools in accordance
23 with the provisions of this section.

24 B. A charter applicant or governing body of a
25 charter school that wishes to appeal a decision of a local

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1 school board concerning the denial, nonrenewal or revocation
2 of a charter school or the imposition of conditions that are
3 unacceptable to the charter school or charter school
4 applicant shall provide the state board with a notice of
5 appeal within thirty days after the local school board's
6 decision. The charter school applicant or governing body of
7 the charter school bringing the appeal shall limit the
8 grounds of the appeal to the grounds for denial, nonrenewal
9 or revocation specified by the local school board. The
10 notice shall include a brief statement of the reasons the
11 charter school applicant contends the local school board's
12 decision was in error. The appeal and review process shall
13 be as follows:

14 (1) within [~~sixty~~] forty-five days after
15 receipt of the notice of appeal, the state board, at a
16 public hearing that may be held in the school district in
17 which the proposed charter school has applied for a charter,
18 shall review the decision of the local school board and make
19 its findings. If the state board finds that the local
20 school board's decision was contrary to the best interests
21 of the students, school district or community, the state
22 board shall remand the decision to the local school board
23 with written instructions for approval of the charter. The
24 instructions shall include specific recommendations
25 concerning approval of the charter. The decision of the

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1 state board shall be final and not subject to appeal; and

2 (2) within thirty days following the remand
3 of a decision by the state board, the local school board, at
4 a public hearing, shall approve the charter.

5 C. The state board, on its own motion, may
6 review a local school board's decision to grant or deny a
7 charter. Within ~~[sixty]~~ thirty days after the ~~[making of a~~
8 ~~motion]~~ decision to review by the state board, the board, at
9 a public hearing that may be held in the district in which
10 the proposed charter school has applied for a charter, shall
11 review the decision of the local school board and determine
12 whether the decision was arbitrary and capricious or whether
13 the establishment or operation of the proposed charter
14 school would:

15 (1) violate any federal or state laws
16 concerning civil rights;

17 (2) violate any court order;

18 (3) threaten the health and safety of
19 students within the school district; or

20 (4) violate the provisions of Section ~~[11~~
21 ~~of the 1999 Charter Schools Act]~~ 22-8B-11 NMSA 1978,
22 prescribing the permissible number of charter schools.

23 D. If the state board determines that the
24 charter would violate the provisions set forth in Subsection
25 C of this section, the state board shall remand the decision

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1 to the local school board with instructions to deny the
2 charter application. The state board may extend the time
3 lines established in this section for good cause. The
4 decision of the state board shall be final and not subject
5 to appeal. "

6 Section 12. Section 22-8B-11 NMSA 1978 (being Laws
7 1999, Chapter 281, Section 11) is amended to read:

8 "22-8B-11. CHARTER SCHOOLS--MAXIMUM NUMBER
9 ESTABLISHED.--

10 A. Local school boards shall authorize the
11 approval of both conversion and start-up charter schools
12 within their school districts.

13 B. No more than fifteen start-up schools and
14 [five] twenty-five conversion schools may be established per
15 year statewide. The number of charter school slots
16 remaining in that year shall be transferred to succeeding
17 years up to a maximum of seventy-five start-up schools and
18 one hundred twenty-five conversion schools in any five-year
19 period. The state board shall promptly notify the local
20 school board of each school district when the limits set
21 forth in this section have been reached. "

22 Section 13. Section 22-8B-13 NMSA 1978 (being Laws
23 1999, Chapter 281, Section 13) is amended to read:

24 "22-8B-13. CHARTER SCHOOL FINANCING.--

25 A. [~~The amount of funding allocated to the~~] A

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1 charter school shall ~~[be]~~ not receive less than ninety-eight
2 percent of ~~[the]~~ its school-generated program cost.

3 B. That portion of money from state or federal
4 programs generated by students enrolled in a charter school
5 shall be allocated to that charter ~~[schools-serving]~~ school
6 for the students eligible for that aid. ~~[Any other public~~
7 ~~school program not offered by the charter school shall not~~
8 ~~be entitled to the share of money generated by a charter~~
9 ~~school program]~~ A charter school that does not offer a
10 school program shall not be entitled to a share of the money
11 received by the school district for that program.

12 C. All services centrally or otherwise provided
13 by the local school district, including custodial,
14 maintenance and media services, libraries and warehousing,
15 shall be subject to negotiation between the charter school
16 and the local school district. Any services for which a
17 charter school contracts with a school district shall be
18 provided by the district at ~~[a reasonable]~~ the actual cost
19 incurred by the district. "

20 Section 14. A new section of the 1999 Charter Schools
21 Act is enacted to read:

22 "[NEW MATERIAL] CHARTER SCHOOLS--VACANT BUILDING
23 LISTS.--The department of education, in conjunction with the
24 general services department, shall publish an annual
25 statewide list of unused buildings or portions of buildings

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1 owned by the state and school districts that may be suitable
2 for the operation of charter schools. The department of
3 education shall make the list available to applicants for
4 charter school status and to existing charter schools."

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

7 "[NEW MATERIAL] SHORT TITLE. -- Sections 15 through 22 of
8 this act may be cited as the "Elementary and Secondary
9 School Voucher Act". "

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

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

13 A. The legislature finds that:

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

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

20 (3) students should be allowed to improve
21 their learning potential through educational opportunities
22 that are best suited to their individual needs and
23 interests;

24 (4) low-income families should not be
25 denied educational choices for their school-age children;

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1 and

2 (5) a phased-in program for vouchers should
3 be established for students living in school attendance
4 zones and school districts with high percentages of dropouts
5 and low-income students, low test scores, a high incidence
6 of schools in need of improvement and probationary schools.
7 The program should include enough public schools or private
8 schools so that affected students, through their parents or
9 legal guardians, will have the option of school choice.

10 B. The purpose of the Elementary and Secondary
11 School Voucher Act is to phase in a voucher program that
12 begins with serving those students most in need of a choice
13 of schools and that eventually provides all of 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 17. A new section of the Public School Code is
18 enacted to read:

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

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

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

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

3 C. "resident school district" means the school
4 district in which a student resides;

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

7 E. "voucher" means a note issued to a qualifying
8 parent or legal guardian through the department of education
9 that can be used to educate his child at a public or
10 eligible private school. "

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

13 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM --

14 A. The department of education shall administer
15 the program pursuant to rules adopted by the state board.

16 B. The state board shall, by rule, establish
17 criteria and guidelines for the implementation and operation
18 of the program.

19 C. A private school is not 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
23 awareness campaign to inform the public about the program
24 using the schools, other government agencies and the media. "

25 Section 19. 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 New Mexico and
4 is at least five years of age prior to 12:01 a.m. on
5 September 1 of the school year or is a developmentally
6 disabled three- or four-year-old child is eligible to
7 participate in the program if the student meets the
8 following criteria:

9 (1) for the 2002-2003 school year:

10 (a) the student's family income in
11 2001 does not exceed one hundred percent of the 2001 federal
12 poverty guidelines;

13 (b) the student will be enrolled in
14 grades one through ten;

15 (c) the student resides in the
16 Albuquerque public school district; and

17 (d) the student resides in the school
18 attendance zone of one of four high schools identified by
19 the department of education. Prior to May 30, 2002, the
20 department shall select four high schools in the Albuquerque
21 public school district with a high percentage of dropouts
22 and low test scores and a high incidence of violence and
23 school vandalism;

24 (2) for the 2003-2004 school year:

25 (a) the student's family income in

1 2002 does not exceed one hundred percent of the 2002 federal
2 poverty guidelines;

3 (b) the student will be enrolled in
4 grades one through eleven; and

5 (c) the student resides in the
6 Albuquerque public school district, the Las Cruces public
7 school district, the Gadsden independent school district,
8 the Santa Fe public school district, the Pojoaque Valley
9 public school district, the Espanola public school district,
10 the Gallup-McKinley county public school district, the Zuni
11 public school district, the Grants-Cibola county school
12 district, the central consolidated school district, the
13 Farmington municipal school district or the Aztec municipal
14 school district;

15 (3) for the 2004-2005 school year, the
16 student's family income in 2003 does not exceed one hundred
17 percent of the 2003 federal poverty guidelines; and

18 (4) for the 2005-2006 school year, the
19 student's family income in 2004 does not exceed two hundred
20 thirty-five percent of the 2004 federal poverty guidelines.

21 B. For the 2006-2007 school year and subsequent
22 years, all students shall be eligible to participate in the
23 program.

24 C. A student who receives a voucher pursuant to
25 the Elementary and Secondary School Voucher Act shall

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1 participate in the testing required by Section 22-1-6 NMSA
2 1978. The testing shall be administered by the student's
3 resident school district. "

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

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

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

9 (1) register with the department of
10 education as an eligible private school;

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

14 (3) develop policies that do not
15 discriminate against students who are recipients of
16 vouchers.

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

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

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

24 A. A parent may use a voucher to enroll his
25 child in a public school outside of the child's resident

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1 school district.

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

6 C. For the 2003-2004 school year and each
7 subsequent school year, not earlier than March 1 and not
8 later than July 1 prior to the beginning of a school year, a
9 student's parent or legal guardian may apply to the resident
10 school district superintendent to participate in the
11 program. The resident school district superintendent may
12 waive the application deadline. The application shall
13 contain the following information:

- 14 (1) the student's name and address;
- 15 (2) the student's date of birth;
- 16 (3) the student's social security number;
- 17 (4) the student's school attendance zone;
- 18 (5) the student's grade level;
- 19 (6) the name and address of the student's
20 parent or legal guardian who is residing with the child;
- 21 (7) if necessary to determine eligibility,
22 proof of family income through copies of:

23 (a) the parent's or legal guardian's
24 three most recent paycheck receipts for all employment;

25 (b) a signed statement by the parent's

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1 or legal guardian's employer indicating the weekly, biweekly
2 or annual net earnings; or

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

7 (8) 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 (9) whether the student speaks a language
13 other than English as his principal language; and

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

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

22 E. Not earlier than May 30, 2002 and not later
23 than June 30, 2002, applications for the 2002-2003 school
24 year containing the information required by Subsection C of
25 this section shall be submitted to the department of

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1 education. Not later than August 1, 2002, the department
2 shall:

3 (1) determine the total amount available
4 for the program;

5 (2) determine the number of available
6 vouchers;

7 (3) determine the eligibility and
8 completeness of each application; and

9 (4) if the number of eligible and complete
10 applications exceeds the number of available vouchers, hold
11 a random lottery to select the students who will be issued
12 vouchers.

13 F. The voucher shall be issued to the student in
14 the care of the student's parent or legal guardian. The
15 voucher shall not be issued to the private school or to the
16 school district containing the public school that the
17 student chooses to attend.

18 G. The student and his parent or legal guardian
19 shall solely select the public or private school the student
20 chooses to attend. Neither the state nor a school district
21 shall decide which school a student may attend or advise or
22 influence the student's selection of a school.

23 H. Not later than August 15 of each year, the
24 resident school district superintendent shall report to the
25 department of education the ages, school attendance zones

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1 and estimated voucher values of students participating in
2 the program."

3 Section 22. A new section of the Public School Code is
4 enacted to read:

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

6 A. Except as limited by Subsection C of this
7 section, for the 2003-2004 school year and each subsequent
8 school year, the value of the voucher shall be equal to the
9 amount of money generated by the student through the state
10 equalization guarantee distribution provided in the Public
11 School Finance Act and a proportionate per student amount
12 for transportation expenses if the student had attended a
13 public school in the student's school attendance zone. The
14 value of the voucher shall also include a proportionate
15 allocation for the resident school district's at-risk
16 funding. The department of education shall calculate the
17 value of a student's voucher using the state equalization
18 guarantee distribution formula.

19 B. Except as limited by Subsection C of this
20 section, for the 2002-2003 school year, the value of the
21 voucher shall equal three thousand dollars (\$3,000).

22 C. Notwithstanding the value of a voucher
23 determined pursuant to Subsection A or B of this section,
24 the voucher redemption value shall not exceed the tuition
25 and fees charged by a private school for students not

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1 participating in the program unless the cost of educating
2 the student presenting the voucher is greater than the
3 tuition and fees charged, in which case the voucher
4 redemption value shall not exceed those costs.

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

10 E. A private school or a school district located
11 outside of the student's attendance zone shall redeem the
12 value of the voucher from the resident school district; or,
13 for the 2002-2003 school year, from the department of
14 education. The value of the voucher shall be paid in the
15 following installments: twenty-five percent of the value in
16 September, twenty-five percent of the value in November,
17 twenty-five percent of the value in February and twenty-five
18 percent of the value in May. The installments shall be paid
19 on the first day of the applicable month.

20 F. If a private school disenrolls a student
21 during the school year or if the student is absent for ten
22 consecutive days without explanation from the student's
23 parent or legal guardian, the private school shall, in
24 writing, notify the resident school district or, for the
25 2002-2003 school year, the department of education, and the

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1 voucher redemption shall cease.

2 G. If a parent or legal guardian disenrolls a
3 student from a private school and enrolls the student in
4 another private school or in a public school during the
5 school year, the parent or legal guardian shall, in writing,
6 notify the resident school district or, for the 2002-2003
7 school year, the department of education. Upon receipt of
8 proof of enrollment in another private school and
9 certification of tuition and fees charged by the new private
10 school, the remaining voucher payment installments shall be
11 made to the new private school. Upon proof of enrollment in
12 a public school, the remaining installments shall be made to
13 the school district in which the public school is located. "

14 Section 23. A new section of the School Personnel Act
15 is enacted to read:

16 "[NEW MATERIAL] LIMITED RECIPROCITY.--A teacher or
17 school administrator who holds a valid license or
18 certificate in another state shall be granted a similar New
19 Mexico certificate if the other state's licensure or
20 certification requirements meet or exceed New Mexico
21 certificate requirements. "

22 Section 24. A new section of the School Personnel Act
23 is enacted to read:

24 "[NEW MATERIAL] SCHOOL DISTRICTS REQUIRED TO NOTIFY
25 EMPLOYEES OF CERTAIN RIGHTS REGARDING USE OF COLLECTED UNION

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1 DUES. --

2 A. A school district that collects union dues
3 from its employees shall post a notice in one or more
4 conspicuous locations in the workplace disclosing the
5 employees' rights regarding the use of collected union dues.
6 The notice shall be in substantially the following form and
7 substance:

8 "NOTICE TO EMPLOYEES
9 IN ACCORDANCE WITH THE UNITED STATES SUPREME COURT DECISION
10 IN *COMMUNICATIONS WORKERS OF AMERICA* v. *BECK* (1988)
11 YOU HAVE THE FOLLOWING RIGHTS REGARDING THE USE OF UNION
12 DUES COLLECTED FROM YOU:

13 1. A union is not permitted to expend dues or fees
14 collected from dues-paying nonmember employees, often
15 referred to as "agency fees", on activities unrelated to
16 collective bargaining activities and may collect from those
17 employees only those dues and fees necessary to finance
18 collective bargaining activities.

19 2. Political causes and community outreach programs
20 are activities unrelated to collective bargaining and agency
21 fees shall not be used for financing political causes or
22 community outreach programs. "

23 B. The director of the labor and industrial
24 division of the labor department shall prepare and furnish
25 posters containing the notice in Subsection A of this

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1 section to school districts. Posting of that notice in one
2 or more conspicuous locations in each school and other
3 school district workplaces is compliance with the
4 requirement of Subsection A of this section.

5 C. If withheld union dues or fees are to be used
6 for political purposes, before withholding from an employee,
7 the school district shall obtain written permission from the
8 employee. After once obtaining that permission, the school
9 district shall obtain it annually thereafter for each
10 employee that remains employed and who remains subject to
11 withholding.

12 D. A union that engages in mandatory withholding
13 of dues or fees from nonmember employees shall report
14 annually to the secretary of state the fact of the
15 withholding and the amounts withheld together with
16 expenditures from amounts withheld in at least the following
17 categories:

- 18 (1) collective bargaining;
- 19 (2) organizing;
- 20 (3) developing safety programs in the
21 workplace;
- 22 (4) partisan political campaigns and
23 contributions;
- 24 (5) political issue education; and
25 (6) voter registration. "

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1 Section 25. A new section of the Public School Code is
2 enacted to read:

3 "[NEW MATERIAL] SHORT TITLE. -- Sections 25 through 30 of
4 this act may be cited as the "Teacher Merit Pay Act". "

5 Section 26. A new section of the Public School Code is
6 enacted to read:

7 "[NEW MATERIAL] PURPOSE OF ACT. -- The purpose of the
8 Teacher Merit Pay Act is to reward teachers who demonstrate
9 outstanding teacher practices, resulting in outstanding
10 student academic performances and student improvement, and
11 to encourage all teachers to excel in their teaching beyond
12 state standards and benchmarks in order to optimally impact
13 students. "

14 Section 27. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING
17 RULES. --

18 A. The state board shall establish a teacher
19 merit pay program.

20 B. The state board shall establish guidelines
21 for the implementation and operation of a teacher merit pay
22 program to provide to teachers merit awards that shall be
23 incorporated into the teacher's base salary in accordance
24 with the provisions of the Teacher Merit Pay Act.

25 C. The department of education shall provide

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1 administrative assistance, meeting space and other necessary
2 facilities and support services as the teacher merit pay
3 committee may request.

4 D. The state superintendent shall report
5 annually to the legislature and the governor on the
6 effectiveness of the teacher merit pay program. The report
7 shall include evaluations, surveys and the recommendations
8 of parents and teachers involved in the program and an
9 analysis of the extent to which the program encourages
10 teacher excellence and increases student achievement. "

11 Section 28. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] TEACHER MERIT PAY COMMITTEE--DUTIES--
14 MEMBERSHIP.--

15 A. The "teacher merit pay committee" is created
16 as an advisory committee to advise the state board and the
17 department of education on all policies, strategies,
18 organizational structures and other matters necessary to
19 establish and implement a teacher merit pay program.

20 B. The teacher merit pay committee shall consist
21 of ten members appointed as follows:

22 (1) two members of the state board's
23 standing committee on accountability, appointed by the
24 president of the state board;

25 (2) one member who represents the business

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1 community and who is not employed in education, appointed by
2 the governor;

3 (3) one member who represents the business
4 community and who is not employed in education, appointed
5 jointly by the president pro tempore of the senate and the
6 speaker of the house of representatives;

7 (4) one member who is a parent of a school-
8 age child and who is not employed in education, appointed by
9 the governor;

10 (5) one member who is a parent of a school-
11 age child and who is not employed in education, appointed
12 jointly by the president pro tempore of the senate and the
13 speaker of the house of representatives;

14 (6) two members who are certified school
15 instructors, one of whom shall be a member of either the New
16 Mexico national education association or the federation of
17 education employees, appointed by the governor; and

18 (7) two members who are certified school
19 instructors, one of whom shall be a member of either the New
20 Mexico national education association or the federation of
21 education employees, appointed jointly by the president pro
22 tempore of the senate and the speaker of the house of
23 representatives.

24 C. The remaining members of the state board's
25 standing committee on accountability who are not already

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1 appointed may serve as advisory members to the teacher merit
2 pay committee.

3 D. The teacher merit pay committee shall meet at
4 the call of the chairman and shall meet not less than
5 monthly. The chairman shall be elected from among the
6 members of the committee.

7 E. Members of the teacher merit pay committee
8 shall receive per diem and mileage as provided in the Per
9 Diem and Mileage Act. "

10 Section 29. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] TEACHER EVALUATION REPORT--STUDENT
13 ACHIEVEMENT REPORT.--

14 A. The teacher merit pay committee shall advise
15 the state board on the design of the teacher evaluation and
16 student achievement reports used to determine the basis of
17 merit awards in accordance with the provisions of the
18 Teacher Merit Pay Act.

19 B. The teacher evaluation report shall include
20 self-, peer- and supervisor-evaluation components. The self
21 evaluation shall be provided by the teacher who is eligible
22 for a merit award. The peer evaluation shall be provided by
23 an associate of the teacher who is eligible for the merit
24 award and who instructs at the same grade level for
25 elementary schools or in the same subject area for middle

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1 and secondary schools. The supervisor evaluation shall be
2 completed by a supervisor of the teacher who is eligible for
3 the merit award. The state board may determine specific
4 evaluation standards for measurement in the teacher
5 evaluation report, including whether the teacher:

- 6 (1) demonstrates substantial content
7 knowledge of his instructional subject matter;
- 8 (2) demonstrates a professional practice of
9 teaching;
- 10 (3) understands student cognitive learning
11 processes;
- 12 (4) uses effective curriculum and
13 instructional strategies; and
- 14 (5) uses successful classroom strategies.

15 C. The student achievement report shall measure
16 student achievement through various student academic
17 performance measures, including:

- 18 (1) standardized norm-referenced
19 assessments;
- 20 (2) criterion-referenced assessments; and
- 21 (3) other standards determined by the state
22 board. "

23 Section 30. A new section of the Public School Code is
24 enacted to read:

25 "[NEW MATERIAL] SALARY INCREASES. --The state board,

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1 with the advice of the teacher merit pay committee, shall
2 determine base salary merit pay increases for teachers
3 pursuant to the Teacher Merit Pay Act. In determining merit
4 pay, the state board shall use the teacher evaluation report
5 and the student achievement report to determine whether a
6 teacher is "superior", "outstanding" or "exceeds
7 proficient". A teacher who is:

8 A. "superior" shall receive up to a three
9 percent base salary increase;

10 B. "outstanding" shall receive up to a two
11 percent base salary increase; and

12 C. "exceeds proficient" shall receive up to a
13 one percent base salary increase. "

14 Section 31. Section 22-12-2 NMSA 1978 (being Laws
15 1967, Chapter 16, Section 170, as amended) is amended to
16 read:

17 "22-12-2. COMPULSORY SCHOOL ATTENDANCE--
18 RESPONSIBILITY. --

19 A. Any qualified student and any person who
20 because of his age is eligible to become a qualified student
21 as defined by the Public School Finance Act [~~until attaining~~
22 ~~the age of majority~~] shall attend a public school, a private
23 school, a home school or a state institution until attaining
24 the age of majority. A person shall be excused from this
25 requirement if:

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1 (1) the person is specifically exempted by
2 law from the provisions of this section;

3 (2) the person has graduated from a high
4 school;

5 (3) the person is at least seventeen years
6 of age and has been excused by the local school board or its
7 authorized representative upon a finding that the person
8 will be employed in a gainful trade or occupation or engaged
9 in an alternative form of education sufficient for the
10 person's educational needs and the parent, guardian or other
11 person having custody and control consents; [or]

12 (4) with the consent of the parent,
13 guardian or person having custody and control of the person
14 to be excused, the person is excused from the provisions of
15 this section by the superintendent of schools of the school
16 district in which the person is a resident and the person is
17 under eight years of age; or

18 (5) with the consent of the parent,
19 guardian or person having custody and control of the person
20 to be excused, the person is excused from the provisions of
21 this section by the superintendent of schools of the school
22 district in which the person is a resident because the
23 person has completed the tenth grade and has received a
24 graduate equivalent diploma.

25 B. A person subject to the provisions of the

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1 Compulsory School Attendance Law shall attend school for at
2 least the length of time of the school year that is
3 established in the school district in which the person is a
4 resident.

5 C. Any parent, guardian or person having custody
6 and control of a person subject to the provisions of the
7 Compulsory School Attendance Law is responsible for the
8 school attendance of that person. "

9 Section 32. Section 22-15-2 NMSA 1978 (being Laws
10 1967, Chapter 16, Section 206, as amended) is amended to
11 read:

12 "22-15-2. DEFINITIONS. --As used in the Instructional
13 Material Law:

14 A. "division" or "bureau" means the
15 instructional material bureau in the department of
16 education;

17 B. "director" or "chief" means the chief of the
18 bureau;

19 C. "instructional material" means school
20 textbooks and other educational media that are used as the
21 basis for instruction, including combinations of textbooks,
22 learning kits, supplementary materials and electronic media;

23 [~~D. "multiple list" means a written list of~~
24 ~~those instructional materials approved by the state board;~~

25 E.] D. "membership" means the [~~total~~] average

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1 enrollment of qualified students on the fortieth, [~~day~~]
2 eightieth and one hundred twentieth days of the prior school
3 year entitled to the free use of instructional material
4 pursuant to the Instructional Material Law; and

5 [~~F-~~] E. "additional pupil" means a pupil in a
6 school district's, state institution's [~~or~~], private
7 school's or adult basic education center's current year's
8 certified [~~forty-day~~] membership above the number certified
9 in the school district's, state institution's [~~or~~], private
10 school's or adult basic education center's prior year's
11 [~~forty-day~~] membership. "

12 Section 33. Section 22-15-4 NMSA 1978 (being Laws
13 1967, Chapter 16, Section 208, as amended) is amended to
14 read:

15 "22-15-4. BUREAU--DUTIES.--Subject to the policies and
16 [~~regulations~~] rules of the state board, the bureau shall:

17 A. administer the provisions of the
18 Instructional Material Law;

19 B. enforce [~~regulations~~] rules for the handling,
20 safekeeping and distribution of instructional material and
21 instructional material funds and for inventory and
22 accounting procedures to be followed by school districts,
23 state institutions, private schools and adult basic
24 education centers pursuant to the Instructional Material
25 Law;

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1 C. withdraw or withhold the privilege of
2 participating in the free use of instructional material in
3 case of any violation of or noncompliance with the
4 provisions of the Instructional Material Law or any
5 ~~[regulations]~~ rules adopted pursuant thereto; ~~[and~~

6 ~~D. enforce regulations relating to the use and~~
7 ~~operation of instructional material depositories in the~~
8 ~~instructional material distribution process]~~

9 D. enforce rules that require local school
10 boards to implement a process that ensures that parents and
11 other community members are involved in the instructional
12 material review process;

13 E. ensure that instructional material purchased
14 by private schools is not of a sectarian, partisan or
15 denominational character or a religious nature by requiring
16 private schools to submit a list with titles and a brief
17 summary of content of all instructional material purchased
18 with state instructional material funds; and

19 F. require an annual report from each local
20 school board, state institution, private school or adult
21 basic education center that acquires instructional material
22 pursuant to the Instructional Material Law. "

23 Section 34. Section 22-15-5 NMSA 1978 (being Laws
24 1967, Chapter 16, Section 209, as amended) is amended to
25 read:

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1 "22-15-5. INSTRUCTIONAL MATERIAL FUND. --

2 A. The state treasurer shall establish a fund to
3 be known as the "instructional material fund".

4 B. The instructional material fund shall be used
5 for the purpose of paying for the cost of purchasing
6 instructional material pursuant to the Instructional
7 Material Law. Transportation charges for the delivery of
8 instructional material to a school district, a state
9 institution, a private school as agent or an adult basic
10 education center and emergency expenses incurred in
11 providing instructional material to students may be included
12 as a cost of purchasing instructional material. Charges for
13 rebinding of used instructional ~~[materials that appear on~~
14 ~~the multiple list pursuant to Section 22-15-8 NMSA 1978]~~
15 material may also be included as a cost of purchasing
16 instructional material. "

17 Section 35. Section 22-15-8 NMSA 1978 (being Laws
18 1967, Chapter 16, Section 212, as amended) is amended to
19 read:

20 "22-15-8. [~~MULTIPLE LIST~~] SELECTION OF INSTRUCTIONAL
21 MATERIAL. -- [~~A. The state board shall adopt a multiple list~~
22 ~~to be made available to students pursuant to the~~
23 ~~Instructional Material Law. The state board shall ensure~~
24 ~~that parents and other community members are involved in the~~
25 ~~adoption process at the state level.~~

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1 B-] Pursuant to the provisions of the
2 Instructional Material Law, each local school [~~district~~
3 board, state institution, private school as agent or adult
4 basic education center may select instructional material for
5 the use of its students [~~from the multiple list adopted by~~
6 ~~the state board~~]; provided that none of the instructional
7 material purchased is of a sectarian, partisan or
8 denominational character or a religious nature. Local
9 school boards shall give written notice to parents and other
10 community members and shall invite parental involvement in
11 the [~~adoption~~] selection process at the school district
12 level. Local school boards shall also give public notice,
13 which notice may include publication in a newspaper of
14 general circulation in the school district. "

15 Section 36. Section 22-15-9 NMSA 1978 (being Laws
16 1967, Chapter 16, Section 213, as amended) is amended to
17 read:

18 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
19 MATERIAL. --

20 A. On or before July 1 of each year, the
21 department of education shall allocate to each school
22 district, state institution or private school not less than
23 [~~ninety~~] seventy-five percent of its estimated entitlement
24 as determined from the estimated [~~forty-day~~] membership for
25 the next school year. A school district's, state

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1 institution's or private school's entitlement is that
2 portion of the total amount of the annual appropriation less
3 a deduction for a reasonable reserve for emergency expenses
4 that its ~~[forty-day]~~ membership bears to the ~~[forty-day]~~
5 membership of the entire state. For the purpose of this
6 allocation, additional pupils shall be counted as six
7 pupils. The allocation for adult basic education shall be
8 based on a full-time equivalency obtained by multiplying the
9 total previous year's enrollment by .25.

10 B. On or before January 15 of each year, the
11 department of education shall recompute each entitlement
12 ~~[using the forty-day membership for that year, except for~~
13 ~~adult basic education]~~ and shall allocate the balance of the
14 annual appropriation adjusting for any over- or under-
15 estimation made in the first allocation.

16 ~~[C. An amount not to exceed thirty percent of~~
17 ~~the allocations attributed to each local school district,~~
18 ~~state institution or adult basic education center may be~~
19 ~~used for instructional material not included on the multiple~~
20 ~~list provided for in Section 22-15-8 NMSA 1978. Adult basic~~
21 ~~education centers may expend up to one hundred percent of~~
22 ~~their instructional material funds for items that are not on~~
23 ~~the multiple list.~~

24 ~~D.]~~ C. The department of education shall
25 establish procedures for the distribution of funds directly

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1 to ~~[local]~~ school districts, state institutions and adult
2 basic education centers. The department of education shall
3 distribute funds to private schools on a reimbursement basis
4 for instructional material ~~[included on the multiple list~~
5 ~~provided for in Section 22-15-8 NMSA 1978]~~; provided that
6 none of the instructional material purchased is of a
7 sectarian, partisan or denominational character or a
8 religious nature.

9 ~~[E-]~~ D. A school district, state institution or
10 adult basic education center that has funds remaining for
11 the purchase of instructional material at the end of the
12 fiscal year shall retain those funds for expenditure in
13 subsequent years. Any balance remaining in an instructional
14 material account of a private school at the end of the
15 fiscal year shall remain available for reimbursement by the
16 department of education for instructional material purchases
17 in subsequent years. "

18 Section 37. Section 22-15-12 NMSA 1978 (being Laws
19 1967, Chapter 16, Section 216, as amended) is amended to
20 read:

21 "22-15-12. ANNUAL REPORT. -- Annually, at a time
22 specified by the department of education, each local school
23 board ~~[of a school district]~~ and each governing authority of
24 a state institution, private school or adult basic education
25 center acquiring instructional material pursuant to the

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1 Instructional Material Law shall file a report with the
2 department of education that includes an accurate record of
3 all instructional material purchased, including cost
4 records, on forms and by procedures prescribed by the
5 department. "

6 Section 38. Section 22-15-13 NMSA 1978 (being Laws
7 1967, Chapter 16, Section 217, as amended by Laws 1993,
8 Chapter 156, Section 6 and also by Laws 1993, Chapter 226,
9 Section 44) is amended to read:

10 "22-15-13. CONTRACTS WITH PUBLISHERS. --

11 A. ~~[The state]~~ A local school board, state
12 institution, private school as agent or adult basic
13 education center may enter into a contract with a publisher
14 or a publisher's authorized agent for the purchase and
15 delivery of instructional material ~~[selected from the~~
16 ~~multiple list adopted by the state board]~~.

17 B. Payment for instructional material purchased
18 by ~~[the state]~~ a local school board, state institution,
19 private school as agent or adult basic education center
20 shall be made only upon performance of the contract and the
21 delivery and receipt of the instructional material.

22 C. Each publisher or publisher's authorized
23 agent contracting with ~~[the state]~~ a local school board,
24 state institution, private school as agent or adult basic
25 education center for the sale of instructional material

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1 shall agree:

2 [~~(1)~~ to file a copy of each item of
3 instructional material to be furnished under the contract
4 with the state board with a certificate attached identifying
5 it as an exact copy of the item of instructional material to
6 be furnished under the contract;

7 ~~(2)~~ (1) that the instructional material
8 furnished pursuant to the contract shall be of the same
9 quality in regard to paper, binding, printing,
10 illustrations, subject matter and authorship as the [copy
11 filed with the state board] copies sold to other states; and

12 [~~(3)~~ (2) that if the instructional
13 material under the contract is sold elsewhere in the United
14 States for a price less than that agreed upon in the
15 contract with the [state] local school board, state
16 institution, private school as agent or adult basic
17 education center, the price to the state shall be reduced to
18 the same amount.

19 D. Each contract executed for the acquisition of
20 instructional material shall include the right of the local
21 school board, state institution, private school as agent or
22 adult basic education center to transcribe and reproduce
23 instructional material in media appropriate for the use of
24 students with visual impairment who are unable to use
25 instructional material in conventional print and form.

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1 Publishers of adopted textbooks shall be required to provide
2 those materials to the local school board, state
3 institution, private school as agent or adult basic
4 education center in an electronic format specified by the
5 educational entity that is readily translatable into braille
6 and can be used for large print or speech access within a
7 time period specified by the educational entity. "

8 Section 39. Section 22-23-1 NMSA 1978 (being Laws
9 1973, Chapter 285, Section 1) is amended to read:

10 "22-23-1. SHORT TITLE. -- [~~This act~~] Chapter 22, Article
11 23 NMSA 1978 may be cited as the "Bilingual Multicultural
12 Education Act". "

13 Section 40. A new section of the Bilingual
14 Multicultural Education Act is enacted to read:

15 "[NEW MATERIAL] LIMITED-ENGLISH-PROFICIENT STUDENTS--
16 ENGLISH IMMERSION OPTION. -- A non-English-speaking or
17 limited-English-proficient student shall be placed in an
18 English immersion program if the parent of the student
19 requests the placement. The placement shall not decrease
20 the school district's calculation for at-risk program units
21 and bilingual multicultural education units. "

22 Section 41. APPROPRIATION. -- Eight million seven
23 hundred thousand dollars (\$8,700,000) is appropriated from
24 the general fund to the state department of public education
25 for expenditure in fiscal year 2003 for the purpose of

. 140117. 1GJ

underscored material = new
[bracketed material] = delete

1 paying vouchers in the 2002-2003 school year pursuant to the
2 Elementary and Secondary School Voucher Act. Any unexpended
3 or unencumbered balance remaining at the end of fiscal year
4 2003 shall revert to the general fund.

5 Section 42. REPEAL. -- Section 22-15-11 NMSA 1978 (being
6 Laws 1967, Chapter 16, Section 215, as amended) is repealed.