

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 4**

**44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 1999**

**INTRODUCED BY**

**Daniel R. Foley**

**AN ACT**

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

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

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

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

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

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

**A. The legislature finds that:**

**. 129559. 1GJ**

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

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

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

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

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

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

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

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

22 A. "family income" means "earned income" as  
23 defined in the New Mexico Works Act and includes the income of  
24 a student's parent or legal guardian who resides with the  
25 student at the student's principal residence;

underscored material = new  
[bracketed material] = delete

1           B. "federal poverty guidelines" means the level of  
2 income defining poverty by family size published annually in  
3 the federal register by the United States department of health  
4 and human services;

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

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

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

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

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

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

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

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

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

underscored material = new  
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

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

8 (1) for the four school years beginning in  
9 the years 2000 through 2003, the student resides in a class A  
10 county or a class B county with a population of greater than  
11 ninety-five thousand and a net taxable value for property  
12 taxation purposes of greater than two billion dollars  
13 (\$2,000,000,000) and:

14 (a) for the school year beginning in  
15 the year 2000, the student's family income in 1999 does not  
16 exceed one hundred percent of the 1999 federal poverty  
17 guidelines;

18 (b) for the school year beginning in  
19 the year 2001, the student's family income in 2000 does not  
20 exceed one hundred eighty-five percent of the 2000 federal  
21 poverty guidelines;

22 (c) for the school year beginning in  
23 the year 2002, the student's family income in 2001 does not  
24 exceed two hundred thirty-five percent of the 2001 federal  
25 poverty guidelines; and

. 129559. 1GJ

underscored material = new  
[bracketed material] = del etc

1 (d) for the school year beginning in  
2 the year 2003 and for all subsequent school years, the student  
3 resides in a class A or a class B county with a population of  
4 greater than ninety-five thousand and a net taxable value of  
5 more than two billion dollars (\$2,000,000,000) without regard  
6 to family income;

7 (2) for the four school years beginning in  
8 the years 2004 through 2007, the student resides in a class B  
9 county not described in Paragraph (1) of this subsection and:

10 (a) for the school year beginning in  
11 the year 2004, the student's family income in 2003 does not  
12 exceed one hundred percent of the 2003 federal poverty  
13 guidelines;

14 (b) for the school year beginning in  
15 the year 2005, the student's family income in 2004 does not  
16 exceed one hundred eighty-five percent of the 2004 federal  
17 poverty guidelines;

18 (c) for the school year beginning in  
19 the year 2006, the student's family income in 2005 does not  
20 exceed two hundred thirty-five percent of the 2005 federal  
21 poverty guidelines; and

22 (d) for the school year beginning in  
23 the year 2007 and for all subsequent school years, the student  
24 resides in a class B county without regard to family income;  
25 and

. 129559. 1GJ

underscored material = new  
[bracketed material] = delete

1 (3) for the four school years beginning in  
2 the years 2008 through 2011, the student resides in any county  
3 not covered by Paragraph (1) or (2) of this subsection and:

4 (a) for the school year beginning in  
5 the year 2008, the student's family income in 2007 does not  
6 exceed one hundred percent of the 2007 federal poverty  
7 guidelines;

8 (b) for the school year beginning in  
9 the year 2009, the student's family income in 2008 does not  
10 exceed one hundred eighty-five percent of the 2008 poverty  
11 guidelines;

12 (c) for the school year beginning in  
13 the year 2010, the student's family income in 2009 does not  
14 exceed two hundred thirty-five percent of the 2009 poverty  
15 guidelines; and

16 (d) for the school year beginning in  
17 the year 2011 and for all subsequent school years, all  
18 students residing in a county not covered by Paragraph (1) or  
19 (2) of this subsection shall be eligible to participate in the  
20 program.

21 B. A New Mexico student who is not otherwise  
22 eligible to receive a voucher pursuant to Subsection A of this  
23 section is eligible to participate in the program for the  
24 school year beginning in the year 2011 and for all subsequent  
25 school years.

underscored material = new  
[bracketed material] = delete

1 C. A student who receives a voucher pursuant to  
2 the Elementary and Secondary School Voucher Act shall  
3 participate in the testing required by Subsection B of Section  
4 22-1-6 NMSA 1978. The testing shall be administered by the  
5 school district in which the student who receives the voucher  
6 resides. "

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

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

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

12 (1) register with the superintendent of the  
13 school district in which the private school is located as an  
14 eligible private school;

15 (2) maintain or develop antidiscrimination  
16 policies to prevent discrimination on the basis of race,  
17 color, national origin or ancestry; and

18 (3) develop policies that do not discriminate  
19 against students who are recipients of elementary and  
20 secondary school vouchers.

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

25 Section 7. A new section of the Public School Code is

. 129559. 1GJ

underscored material = new  
[bracketed material] = delete

1 enacted to read:

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

3 A. A parent may use a voucher to enroll his child  
4 in a public school outside of the school district in which the  
5 child resides.

6 B. A school district shall adopt specific, written  
7 standards for acceptance and rejection of vouchers provided  
8 for in the Elementary and Secondary School Voucher Act to be  
9 used for enrollment in public schools based on the capacity of  
10 a program, class size, grade level or school buildings.

11 C. Not earlier than February 15 and not later than  
12 May 15 prior to the beginning of a school year, a student's  
13 parent or legal guardian may apply to the school district  
14 superintendent of the district in which the student resides to  
15 participate in the program. The school district  
16 superintendent may waive the application deadline. The  
17 application shall contain the following information:

- 18 (1) the student's name and address;
- 19 (2) the student's date of birth;
- 20 (3) the student's social security number;
- 21 (4) the student's school attendance zone;
- 22 (5) the student's grade level;
- 23 (6) the name and address of the student's  
24 parent or legal guardian who is residing with the child;
- 25 (7) for a parent or legal guardian who



underscored material = new  
[bracketed material] = delete

1 resides with the student at the student's principal residence,  
2 when required by the school district superintendent, proof of  
3 income eligibility through copies of:

4 (a) the student's, parent's or legal  
5 guardian's three most recent paycheck receipts for all  
6 employment;

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

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

14 (8) whether the student was enrolled in a  
15 class A, B, C or D special education program in the prior  
16 school year or, for a child entering school for the first  
17 time, whether the child has a diagnosed developmental  
18 disability or learning disorder;

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

21 (10) the name, tuition, fees and address of  
22 the public or private school to which the student intends to  
23 apply.

24 D. No later than thirty days after the application  
25 is received, the school district superintendent receiving an

underscored material = new  
[bracketed material] = delete

1 application shall act on it, notify the parent or legal  
2 guardian of the value of the voucher and issue the voucher if  
3 the application is approved.

4 E. The voucher shall be issued to the student by  
5 July 1 in the care of the student's parent or legal guardian.  
6 The voucher shall not be issued to the private school or  
7 school district containing the public school that the student  
8 chooses to attend. The student or the student's parent or  
9 legal guardian shall submit the voucher to the selected  
10 private school.

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

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

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

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

23 A. The value of the voucher shall be equal to the  
24 amount of money generated by the student through the state  
25 equalization guarantee distribution provided in the Public

underscored material = new  
[bracketed material] = delete

1 School Finance Act and a proportionate per student amount for  
2 transportation expenses if the student had attended a public  
3 school in his school attendance zone, excluding any size or  
4 training and experience adjustment for the school district or  
5 the public school. The value of the voucher shall also  
6 include a proportionate allocation for the local school  
7 district's at-risk funding. The department of education shall  
8 calculate the value of a student's voucher using the state  
9 equalization guarantee distribution formula.

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

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

22 D. A private school or public school located  
23 outside of the student's attendance zone shall redeem the  
24 value of the voucher from the school district issuing it in  
25 the following installments: twenty-five percent of the value

underscored material = new  
[bracketed material] = del ete

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

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

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

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

. 129559. 1GJ

underscored material = new  
[bracketed material] = delete

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

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

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

5 B. "membership" means the total enrollment of  
6 qualified students on the current roll of a class or school on  
7 a specified day and all students who have qualified for  
8 receipt of vouchers for use in private schools pursuant to the  
9 Elementary and Secondary School Voucher Act. The current roll  
10 is established by the addition of original entries and  
11 reentries minus withdrawals. Withdrawals of students, in  
12 addition to students formally withdrawn from the public  
13 school, include students absent from the public school for as  
14 many as ten consecutive school days;

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

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

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

. 129559. 1GJ

underscored material = new  
[bracketed material] = delete

1 F. "early childhood education ADM" or "early  
2 childhood education MEM" means the full-time-equivalent MEM of  
3 students attending approved early childhood education  
4 programs;

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

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

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

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

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

24 L. "public money" or "public funds" means all  
25 money from public or private sources received by a local

underscored material = new  
[bracketed material] = delete

1 school board or officer or employee of a local school board  
2 for public use;

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

5 (1) has not graduated from high school;

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

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

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

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

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