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**HOUSE BILL 21**

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

**INTRODUCED BY**

**Stevan E. Pearce**

**AN ACT**

**RELATING TO EDUCATION; ENACTING THE PILOT NEW MEXICO WORKS  
VOUCHER PROGRAM ACT; MAKING AN APPROPRIATION; DECLARING AN  
EMERGENCY.**

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

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

**"[NEW MATERIAL] SHORT TITLE. -- Sections 1 through 5 of  
this act may be cited as the "Pilot New Mexico Works Voucher  
Program Act". "**

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

**"[NEW MATERIAL] DEFINITIONS. -- As used in the Pilot New  
Mexico Works Voucher Program Act:**

**A. "program" means a pilot program created**

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1 pursuant to the Pilot New Mexico Works Voucher Program Act;

2 B. "student" means a developmentally disabled  
3 three- or four-year-old child or a school-age person for whom  
4 a parent or guardian has the legal authority to make  
5 decisions; and

6 C. "voucher" means a note that will be issued to a  
7 student's parent or legal guardian through the department of  
8 education. "

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

11 "[NEW MATERIAL] ADMINISTRATION-- PUBLIC AWARENESS-- RULES--  
12 ELIGIBILITY. --

13 A. The department of education shall establish and  
14 administer a program pursuant to the Pilot New Mexico Works  
15 Voucher Program Act to provide vouchers to students who reside  
16 in the Albuquerque public school district or the Santa Fe  
17 public school district. The voucher may be used in any public  
18 or private school located in New Mexico. The Albuquerque  
19 public school district shall authorize up to three thousand  
20 students to receive vouchers, and the Santa Fe public school  
21 district shall authorize up to one thousand students to  
22 receive vouchers. The vouchers shall not be distributed until  
23 all applications have been received. If more than three  
24 thousand students apply for a voucher in Albuquerque and more  
25 than one thousand students apply for a voucher in Santa Fe,

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1 the vouchers shall be distributed on a random basis. The  
2 program shall run from July 1, 1999 to June 30, 2003. The  
3 department of education shall promulgate rules to implement  
4 and operate the program. The department of education, the  
5 Santa Fe public school district and the Albuquerque public  
6 school district shall report to the legislature on the outcome  
7 of the program.

8 B. The department of education, the Santa Fe  
9 public school district and the Albuquerque public school  
10 district shall embark on a public awareness campaign to inform  
11 the public about the program using private and public schools,  
12 other government agencies and the media.

13 C. A student is eligible to participate, in the  
14 program if his family is eligible to receive cash assistance  
15 or services pursuant to the New Mexico Works Act.

16 D. At the request of a participant, the human  
17 services department shall provide him with written  
18 certification that he is eligible to receive cash assistance  
19 or services pursuant to the New Mexico Works Act.

20 E. A student who receives a voucher pursuant to  
21 the Pilot New Mexico Works Voucher Program Act shall  
22 participate in the testing required by Subsection B of Section  
23 22-1-6 NMSA 1978. The testing shall be administered by the  
24 school district in which the student who receives the voucher  
25 resides. "

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

3 "[NEW MATERIAL] ISSUANCE AND USAGE OF VOUCHERS. --

4 A. Before ~~May~~ 31 of the prior school year, the  
5 parent or legal guardian of a student shall apply to the  
6 Albuquerque public school district or the Santa Fe public  
7 school district to receive a voucher on behalf of the student.  
8 The parent or legal guardian shall provide the Albuquerque  
9 public school district or the Santa Fe public school district  
10 certification that he is a participant pursuant to the New  
11 Mexico Works Act.

12 B. The parent or legal guardian of a student ~~may~~  
13 use a voucher to enroll the student in any public or private  
14 school located within New Mexico.

15 C. The student and his parent or legal guardian  
16 shall solely select the public or private school the student  
17 chooses to attend.

18 D. If a student selects a private school, his  
19 parent or legal guardian shall be responsible to transport the  
20 student to school. The Albuquerque public school district or  
21 the Santa Fe public school district ~~may~~ promulgate rules to  
22 provide transportation services to those students who select  
23 public schools in the students' attendance zones within the  
24 school district's boundary. "

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

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1 enacted to read:

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

3 A. The value of each voucher shall be three  
4 thousand one hundred dollars (\$3,100). The voucher shall be  
5 distributed through the school district in which a public  
6 school is located that a student would have attended according  
7 to the student's attendance zone requirements. If a student  
8 selects an accredited private school, the value of the voucher  
9 shall be increased by ten percent.

10 B. The school district in which a student resides  
11 shall fund vouchers in its district out of the funds  
12 distributed through the state equalization guarantee  
13 distribution pursuant to the Public School Finance Act.

14 C. If a student disenrolls from a school on or  
15 after the first day of the month, the school from which he  
16 disenrolls shall redeem the value of the voucher for that  
17 month.

18 D. A private school, the Albuquerque public school  
19 district or the Santa Fe public school district shall redeem  
20 one-twelfth of the value of the voucher from the school  
21 district issuing it on the twentieth day of each month of the  
22 year.

23 E. If the unit value generated by a student who  
24 uses a voucher to enroll in a private school is greater than  
25 three thousand one hundred dollars (\$3,100), the school

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1 district in the student's attendance zone shall receive the  
2 difference.

3 F. For a student who uses a voucher to enroll in a  
4 public school outside of the student's attendance zone, the  
5 school district in which the student enrolls shall receive the  
6 amount that the student would have generated through the state  
7 equalization guarantee distribution provided in the Public  
8 School Finance Act, including any size or training and  
9 experience adjustment for the school district or the public  
10 school, and including a proportionate allocation for the local  
11 school district's at-risk funding. "

12 Section 6. Section 22-1-4 NMSA 1978 (being Laws 1975,  
13 Chapter 338, Section 1, as amended) is amended to read:

14 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING  
15 AND ENROLLING--OPEN ENROLLMENT.--

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

20 B. A free public school education in those courses  
21 already offered to persons pursuant to provisions of  
22 Subsection A of this section shall be available to any person  
23 who is a resident of this state and has received a high school  
24 diploma or its equivalent if there is available space in such  
25 courses.

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

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

15 E. Subject to the provisions of the Pilot New  
16 Mexico Works Voucher Program Act, a local school board shall  
17 adopt and promulgate [~~regulations~~] rules governing enrollment  
18 and re-enrollment at schools within the district. These  
19 [~~regulations~~] rules shall include:

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

22 (2) for each school, definition of the  
23 boundaries of areas outside the district boundary or within  
24 the district but outside the school's attendance area, and  
25 within a distance of the school that would not be served by a

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1 school bus route as determined pursuant to Section 22-16-4  
2 NMSA 1978 if enrolled, which areas shall be designated as  
3 "walk zones";

4 (3) priorities for enrollment of students as  
5 follows:

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

8 (b) second, persons who previously  
9 attended the school; and

10 (c) third, all other applicants; and

11 (4) establishment of ~~maximum~~ allowable class  
12 size if smaller than that permitted by law and ratification  
13 and description of the ~~maximum~~ class size in the charter of  
14 all charter schools within the district.

15 F. As long as the ~~maximum~~ allowable class size  
16 established by law, by [~~regulation~~] rule of a local school  
17 board or in the charter of a charter school, whichever is  
18 lower, is not met or exceeded in a school by enrollment of  
19 first-priority persons, the school shall enroll other persons  
20 applying in the priorities stated in the district  
21 [~~regulations~~] rules adopted pursuant to Subsection E of this  
22 section. If the ~~maximum~~ would be exceeded by enrollment of an  
23 applicant in the second or third priority, the school shall  
24 establish a waiting list. As classroom space becomes  
25 available, persons highest on the waiting list within the



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1 highest priority on the list shall be notified and given the  
2 opportunity to enroll."

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

5 "22-8-2. DEFINITIONS. --As used in the Public School  
6 Finance Act:

7 A. "ADM" or "MEM" means membership;  
8 B. "membership" means the total enrollment of  
9 qualified students on the current roll of a class or school on  
10 a specified day and all students who have qualified for  
11 receipt of vouchers pursuant to the Pilot New Mexico Works  
12 Voucher Program Act. The current roll is established by the  
13 addition of original entries and reentries minus withdrawals.  
14 Withdrawals of students, in addition to students formally  
15 withdrawn from the public school, include students absent from  
16 the public school for as many as ten consecutive school days;

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

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

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1 E. "department" or "division" means the state  
2 department of public education;

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

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

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

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

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

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

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1 L. "public money" or "public funds" means all  
2 money from public or private sources received by a local  
3 school board or officer or employee of a local school board  
4 for public use;

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

7 (1) has not graduated from high school;  
8 (2) is regularly enrolled in one-half or more  
9 of the minimum course requirements approved by the state board  
10 for public school students; and

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

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

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

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

22 Section 8. Section 22-12-5 NMSA 1978 (being Laws 1967,  
23 Chapter 16, Section 172, as amended) is amended to read:

24 "22-12-5. SCHOOL ATTENDANCE. --

25 A. Subject to the provisions of the Pilot New

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1 Mexico Works Voucher Program Act, local school boards may  
2 admit school-age persons who do not live within the school  
3 district to the public schools within the school district when  
4 there are sufficient school accommodations to provide for  
5 them.

6 B. Subject to the provisions of the Pilot New  
7 Mexico Works Voucher Program Act, local school boards may  
8 permit school-age persons to transfer to a school outside the  
9 [~~child's~~] students' attendance [~~zone~~] zones but within the  
10 school district when there are sufficient school  
11 accommodations to provide for them.

12 C. Local school boards may charge a tuition fee  
13 for the right to attend public school within the school  
14 district only to those school-age persons who do not live  
15 within the state. The tuition fee shall not exceed the amount  
16 generated by the public school fund for a school-age person  
17 similarly situated within the school district for the current  
18 school year.

19 D. When the parent or guardian of a student not  
20 living in the state pays an ad valorem property tax for school  
21 purposes within the district, the amount of the tuition  
22 payable for the school year shall be reduced by the district  
23 average ad valorem tax per [~~pupil~~] student as determined by  
24 the ad valorem tax credit utilized in calculating state  
25 equalization guarantee distribution. "

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1           Section 9.   APPROPRIATION. --Thirteen million two hundred  
2 thousand dollars (\$13,200,000) is appropriated from the  
3 general fund to the state equalization guarantee distribution  
4 for expenditure in fiscal year 2000 for the funding only of  
5 those students counted in membership, pursuant to the Pilot  
6 New Mexico Works Voucher Program Act, who were not enrolled in  
7 a public school in New Mexico in the prior school year. Any  
8 unexpended or unencumbered balance remaining at the end of  
9 fiscal year 2000 shall revert to the general fund.

10           Section 10.   DELAYED REPEAL. --The Pilot New Mexico Works  
11 Voucher Program Act is repealed effective July 1, 2003.

12           Section 11.   EMERGENCY. --It is necessary for the public  
13 peace, health and safety that this act take effect  
14 immediately.