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SENATE BILL 10

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

INTRODUCED BY

Joseph J. Carraro

AN ACT

RELATING TO EDUCATION; ENACTING THE COMPETITIVE SCHOOLS ACT TO PERMIT PUBLIC SCHOOL STUDENTS TO ATTEND ANY PUBLIC SCHOOL IN THE STATE; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 12 of this act may be cited as the "Competitive Schools Act".

Section 2. [NEW MATERIAL] LEGISLATIVE FINDINGS AND PURPOSE. --

A. The legislature finds that:

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

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

4 (3) students should be allowed to improve
5 their learning potential through educational opportunities
6 that are best suited to their individual needs and interests.

7 B. The purpose of the Competitive Schools Act is
8 to improve educational achievement and to enhance the
9 opportunity for parental and student choice in education by
10 providing additional options to students residing in the state
11 to enroll in public schools without regard to student
12 residence.

13 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the
14 Competitive Schools Act:

15 A. "certificate" means a written instrument issued
16 by the state department of public education to a parent of a
17 child that can be used to enroll the child in a school
18 district outside of the district or attendance zone in which
19 the child resides;

20 B. "department" means the state department of
21 public education;

22 C. "parent" means the natural or adoptive parent
23 of a dependent child or the guardian or legal custodian of a
24 dependent child;

25 D. "program" means the elementary and secondary

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1 school enrollment options program authorized pursuant to the
2 Competitive Schools Act; and

3 E. "school" means a school that is operated by a
4 public school district and that provides elementary or
5 secondary education in accordance with state law.

6 Section 4. [NEW MATERIAL] ESTABLISHMENT OF PROGRAM --The
7 department shall establish a program to enable students
8 residing in the state to attend schools without restriction to
9 the school district or the attendance zone within a school
10 district in which they reside.

11 Section 5. [NEW MATERIAL] APPLICATION PROCEDURES. --

12 A. A parent who wishes his child to attend a
13 school in a school district outside of the district in which
14 the child resides shall submit an application to the
15 nonresident school district. A parent who wishes his child to
16 attend a school within a school district in which the child
17 resides, but which is located outside the established
18 attendance zone for the child, shall submit an application to
19 the resident school district.

20 B. The parent shall submit the application for
21 enrollment for a particular school year within a time limit
22 set and on a form provided by the department.

23 C. If the application is for attendance outside of
24 the resident school district, upon agreement of the school
25 district in which the child resides and the school district to

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1 which application is made, the deadline in Subsection B of
2 this section may be waived.

3 Section 6. [NEW MATERIAL] DESEGREGATION PLAN. -- A school
4 district that has a desegregation plan approved by the
5 department, a court or by the United States office of civil
6 rights of the federal department of education may, in
7 accordance with rules of the department, limit the number of
8 students who transfer into or out of the district, pursuant to
9 the Competitive Schools Act, if necessary to ensure compliance
10 with the plan.

11 Section 7. [NEW MATERIAL] BASIS FOR DECISION. --

12 A. A school district shall adopt specific, written
13 standards for acceptance and rejection of applications
14 pursuant to the Competitive Schools Act. Standards may include
15 consideration of the capacity of a school program, class,
16 grade level or school building. Subject to Subsection B of
17 this section, standards may not include consideration of a
18 student's previous academic achievement, physical condition,
19 sex, national origin, race or proficiency in the English
20 language except when necessary to comply with the provisions
21 of Section 5 of the Competitive Schools Act.

22 B. In considering an application, a school
23 district may apply its usual requirements for admission to a
24 magnet school or a school program designed to serve the gifted
25 and talented.

1 Section 8. [NEW MATERIAL] PROCEDURES. --

2 A. Within sixty days of receiving an application
3 pursuant to Section 5 of the Competitive Schools Act, a school
4 district shall notify, in writing, the applicant parent and
5 the school district in which the student resides, if different
6 from the district to which the application is made, whether
7 the application has been accepted or rejected. If an
8 application is rejected, the school district shall state in
9 the notification the reason for its rejection.

10 B. If an application is accepted, then the
11 department shall issue the applicant a certificate to be
12 presented to the school within ten days after receipt by the
13 applicant. The certificate shall verify that the application
14 was accepted and that the student is enrolled in the school of
15 his choice.

16 Section 9. [NEW MATERIAL] TRANSPORTATION. --In cases in
17 which a student is attending a school not within his resident
18 school district:

19 A. the parent shall provide transportation for the
20 student to the transportation boundary of the attendance zone
21 of the school that the student is attending; and

22 B. the nonresident school district shall provide
23 transportation for the student from the transportation
24 boundary of the attendance zone of the school that the student
25 is attending.

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1 Section 10. [NEW MATERIAL] GRADUATION. -- A school
2 district serving a nonresident student under the Competitive
3 Schools Act shall accept credits toward graduation that were
4 awarded to that student by another school district and shall
5 graduate a nonresident student if the student meets the
6 nonresident school district's own graduation requirements.

7 Section 11. [NEW MATERIAL] INFORMATION. -- In order to
8 enable a parent to make an informed decision about enrollment
9 options pursuant to the Competitive Schools Act, each school
10 district shall make available information about the district,
11 its schools, various programs, policies and procedures. The
12 department shall promulgate rules specifying the information
13 that a district must make available, including objective data
14 on individual school achievement levels and, in the case of
15 secondary schools, dropout and graduation rates.

16 Section 12. [NEW MATERIAL] STATE AID. -- The department
17 shall reallocate state education aid between a resident school
18 district and a nonresident school district, as follows:

19 A. state aid that is allocated on a per-student
20 basis shall be allocated to the school district in which the
21 school is located that a student actually attends; and

22 B. for state aid not allocated on a per-student
23 basis, the department shall review the average effects of a
24 single student's transfer on the costs which that aid is meant
25 to defray for both the resident and the nonresident school

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1 district, and, after the review, the department shall
2 promulgate a formula that results in an equitable allocation
3 to both districts.

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

6 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING
7 AND ENROLLING--OPEN ENROLLMENT.--

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

12 B. A free public school education in those courses
13 already offered to persons pursuant to provisions of
14 Subsection A of this section shall be available to any person
15 who is a resident of this state and has received a high school
16 diploma or its equivalent if there is available space in such
17 courses.

18 C. Any person entitled to a free public school
19 education pursuant to provisions of this section may enroll or
20 re-enroll in a public school at any time and, unless required
21 to attend school pursuant to the Compulsory School Attendance
22 Law, may withdraw from a public school at any time.

23 D. In adopting and promulgating [regulations]
24 rules concerning the enrollment of students transferring from
25 a home school or private school to the public schools, the

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1 local school board shall provide that the grade level at which
2 the transferring student is placed is appropriate to the age
3 of the student or to the student's score on a student
4 achievement test administered according to the statewide and
5 local school district testing programs as determined by the
6 state superintendent or both.

7 E. Subject to the provisions of a program as
8 defined in the Competitive Schools Act, a local school board
9 shall adopt and promulgate [~~regulations~~] rules governing
10 enrollment and re-enrollment at schools within the district.

11 These [~~regulations~~] rules shall include:

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

14 [~~(2) for each school, definition of the~~
15 ~~boundaries of areas outside the district boundary or within~~
16 ~~the district but outside the school's attendance area, and~~
17 ~~within a distance of the school that would not be served by a~~
18 ~~school bus route as determined pursuant to Section 22-16-4~~
19 ~~NMSA 1978 if enrolled, which areas shall be designated as~~
20 ~~"walk zones";~~

21 ~~(3)]~~ (2) priorities for enrollment of
22 students as follows:

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

25 (b) second, persons who previously

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1 attended the school; and

2 (c) third, all other applicants; and

3 [~~(4)~~] (3) establishment of maximum allowable
4 class size if smaller than that permitted by law and
5 ratification and description of the maximum class size in the
6 charter of all charter schools within the district.

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

20 Section 14. SEVERABILITY.--If any part or application of
21 this act is held invalid, the remainder or its application to
22 other situations or persons shall not be affected.

23 Section 15. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 1999.

25 Section 16. EMERGENCY.--It is necessary for the public

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1 peace, health and safety that this act take effect
2 immediately.

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