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SENATE BILL 44

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

INTRODUCED BY

Sue F. Wilson

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. "

