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HOUSE BILL 138

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

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:

(1) every family in New Mexico should have

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1 the option to take advantage of the best educational
2 opportunities available to their school-age children;

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

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

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

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

17 Section 3. 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 a student's
22 parent or legal guardian who resides with the student at the
23 student's principal residence;

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

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- 1 C. "local school district" means the school
- 2 district where a student resides;
- 3 D. "program" means the elementary and secondary
- 4 school voucher program; and
- 5 E. "voucher" means a note that will be issued to a
- 6 qualifying parent through the department of education that
- 7 can be used to educate his child at a public or eligible
- 8 private school as defined in the Public School Code."

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

11 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM--ADOPTING
12 RULES.--

13 A. The department of education shall establish and
14 bear the cost of administering the program.

15 B. The state board shall establish guidelines for
16 the implementation and operation of the program.

17 C. A private school shall not be required to
18 participate in the program.

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

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

25 "[NEW MATERIAL] ELIGIBLE STUDENTS.--

 A. A student who is a resident of New Mexico and
is at least five years of age prior to 12:01 a.m. September 1

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1 of the school year or is a developmentally disabled three- or
2 four-year-old child is eligible to participate in the program
3 if his family meets the following criteria:

4 (1) for the 2000-2001 school year, the
5 student's family income in 1999 does not exceed one hundred
6 percent of the 1999 federal poverty guidelines;

7 (2) for the 2001-2002 school year, the
8 student's family income in 2000 does not exceed one hundred
9 eighty-five percent of the 2000 federal poverty guidelines;

10 and

11 (3) for the 2002-2003 school year, the
12 student's family income in 2001 does not exceed two hundred
13 thirty-five percent of the 2001 federal poverty guidelines.

14 B. For the 2003-2004 school year and subsequent
15 years, all students shall be eligible to participate in the
16 program.

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

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

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

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

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1 (1) register with the superintendent of a
2 local school district as an eligible private school;

3 (2) maintain or develop antidiscrimination
4 policies to prevent discrimination on the basis of race,
5 color, national origin or ancestry; and

6 (3) develop policies that do not
7 discriminate against students who are recipients of
8 elementary and secondary school vouchers.

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

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

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

16 A. A parent may use a voucher to enroll his child
17 in a public school outside of the school district in which
18 the child resides.

19 B. A school district shall adopt specific, written
20 standards for acceptance and rejection of vouchers provided
21 for in the Elementary and Secondary School Voucher Act based
22 on the capacity of a program, class size, grade level or
23 school buildings.

24 C. Not earlier than March 1 and not later than
25 July 1 prior to the beginning of a school year, a student's
parent or legal guardian may apply to the local school
district superintendent to participate in the program. The

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1 local school district superintendent may waive the
2 application deadline. The application shall contain the
3 following information:

- 4 (1) the student's name and address;
- 5 (2) the student's date of birth;
- 6 (3) the student's social security number;
- 7 (4) the student's school attendance zone;
- 8 (5) the student's grade level;
- 9 (6) the name and address of the student's

10 parent or legal guardian who is residing with the child;

- 11 (7) for a parent or legal guardian who
- 12 resides with the student at the student's principal
- 13 residence, when required by the local school district
- 14 superintendent, proof of income eligibility through copies
- 15 of:

- 16 (a) the student's, parent's or legal
- 17 guardian's three most recent paycheck receipts for all
- 18 employment;

- 19 (b) a signed statement by the parent's
- 20 or legal guardian's employer indicating his weekly, biweekly
- 21 or annual net earnings; or

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

- (8) whether the student was enrolled in a
- class A, B, C or D special education program in the prior

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1 school year or, for a child entering school for the first
2 time, whether the child has a diagnosed developmental
3 disability or learning disorder;

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

6 (10) the name, tuition, fees and address of
7 the public or private school to which the student intends to
8 apply.

9 D. No later than forty-five days after the
10 application is received, the local school district
11 superintendent shall act on the application, notify the
12 parent or legal guardian of the value of the voucher and
13 issue the voucher if the application is approved.

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

19 F. The student and his parent or legal guardian
20 shall solely select the public or private school the student
21 chooses to attend. The state shall not decide which school a
22 student may attend. The state shall not advise or influence
23 the student's selection of a school.

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

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

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

4 A. The value of the voucher shall be equal to the
5 amount of money generated by the student through the state
6 equalization guarantee distribution provided in the Public
7 School Finance Act and a proportionate per student amount for
8 transportation expenses if the student had attended a public
9 school in his school attendance zone, excluding any size or
10 training and experience adjustment for the school district or
11 the public school. The value of the voucher shall also
12 include a proportionate allocation for the local school
13 district's at-risk funding. The department of education
14 shall calculate the value of a student's voucher using the
15 state equalization guarantee distribution formula.

16 B. Subject to the value of the voucher set forth
17 in Subsection A of this section, the voucher redemption value
18 shall not exceed the tuition and fees charged by a private
19 school for students not participating in the program unless
20 the cost of educating the student presenting the voucher is
21 greater than the tuition and fees charged, in which case the
22 value of the voucher shall not exceed those costs.

23 C. Within fifteen days after receiving a voucher,
24 a private school shall, in writing, certify the enrollment of
25 the student named on the voucher and shall, in writing,
certify the amount of tuition and fees charged by the private
school to the department of education.

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1 D. A private school or public school district,
2 located outside of the student's attendance zone, shall
3 redeem the value of the voucher from the local school
4 district in the following installments: twenty-five percent
5 of the value determined in Subsection A of this section in
6 September, twenty-five percent of the value determined in
7 Subsection A of this section in November, twenty-five percent
8 of the value determined in Subsection A of this section in
9 February and twenty-five percent of the value determined in
10 Subsection A of this section in May. The installments shall
11 be paid on the first day of the applicable month.

12 E. If a private school disenrolls a student during
13 the school year or if the student is absent for ten
14 consecutive days without explanation from his parent or legal
15 guardian, the private school shall, in writing, notify the
16 local school district, and the voucher redemption shall
17 cease.

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

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1 made to the school district in which the public school is
2 located."

3 Section 9. 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
10 on a specified day and all students who have qualified for
11 receipt of vouchers pursuant to the Elementary and Secondary
12 School Voucher 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
16 from the public school for as many as ten consecutive school
17 days;

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

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

E. "department" or "division" means the state

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1 department of public education;

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

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

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

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

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

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

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

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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
7 more of the minimum course requirements approved by the state
8 board 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
13 education services pursuant to regulation of the state board;
14 or

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

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