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SENATE BILL 416

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

INTRODUCED BY

Ramsay Gorham

AN ACT

RELATING TO EDUCATION; CREATING A JUMPSTART IN EDUCATION
PROGRAM; PROVIDING BEGINNING STUDENTS BROADER EDUCATIONAL
OPPORTUNITIES; ENACTING THE JUMPSTART IN EDUCATION ACT;
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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 10 of
this act may be cited as the "Jumpstart in Education Act". "

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

"[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--
DEFINITIONS. --As used in the Jumpstart in Education Act:

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1 A. "child" means an individual who is five years
2 of age at 12:01 a.m. on August 31 of the school year in which
3 program participation is sought and for whom a parent has the
4 legal authority to make decisions;

5 B. "parent" means the natural or adoptive parent,
6 the guardian or legal custodian of a child;

7 C. "program" means the jumpstart in education
8 program authorized pursuant to the Jumpstart in Education
9 Act;

10 and

11 D. "voucher" means a written instrument issued by
12 the department of education that may be used to pay education
13 expenses of a child enrolled in a private school
14 kindergarten. "

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

17 " [NEW MATERIAL] JUMPSTART IN EDUCATION ACT--
18 ELIGIBILITY.--A child is eligible to participate in the
19 program if the child was not receiving special education
20 services pursuant to rules of the state board in the previous
21 school year and if, in the current school year, the child is
22 eligible for enrollment in kindergarten. "

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

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1 " ~~[NEW MATERIAL]~~ JUMPSTART IN EDUCATION ACT-- REQUIREMENTS
2 FOR PARTICIPATION IN PROGRAM BY PRIVATE SCHOOL KINDERGARTEN--
3 LIMITATION ON NUMBER OF PARTICIPATING STUDENTS. -- To
4 participate in the program, a private school kindergarten
5 shall:

6 A. before October 15 of the prior school year,
7 notify the state superintendent and local school board of the
8 school district in which the private school kindergarten is
9 located of its intent to participate in the program and of
10 the anticipated number of children participating in the
11 program for which it will have space in the current school
12 year;

13 B. comply with the provisions of 42 USCA 2000d;

14 C. meet all health and safety laws and codes that
15 apply to a public school kindergarten;

16 D. not discriminate between students participating
17 in the program and other students;

18 E. accept students participating in the program on
19 a random basis; and

20 F. comply with all program requirements for
21 participation of a private school kindergarten established by
22 rules of the state board. "

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

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1 " ~~[NEW MATERIAL]~~ JUMPSTART IN EDUCATION ACT-- APPLICATION
2 FOR PARTICIPATION IN THE PROGRAM --

3 A. A parent with whom a child resides may submit
4 an application for participation in the program on a form
5 provided by the state superintendent. The application shall
6 be submitted to a participating private school kindergarten
7 chosen by the applicant, and a copy shall be sent to the
8 department of education. The application shall be submitted
9 by delivery or mail and shall be considered received when
10 delivered or three days after mailing. An application must
11 be received no earlier than March 1 and no later than May 1
12 prior to the beginning of a school year. The application
13 shall contain at least the following information:

- 14 (1) the child's name and address;
15 (2) the parent's name and address;
16 (3) the child's social security number;
17 (4) the school district in which the child
18 resides and the child's public school attendance zone;
19 (5) whether the child speaks a language
20 other than English as his principal language; and
21 (6) other information required by the state
22 board to be included in the application.

23 B. Within sixty days after receiving the
24 application, the private school kindergarten shall notify the
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1 applicant, in writing, that the application has been accepted
2 or rejected and in the latter event shall state the reasons
3 for rejection. The state board shall require by rule a
4 random selection process.

5 C. If the private school kindergarten rejects an
6 application because it has too few available spaces, the
7 applicant may transfer the application to a participating
8 private school kindergarten that has available space by
9 submitting the application to that school and notifying the
10 department of education in writing of the transfer no later
11 than five days after its submission. The school to which the
12 transferred application is submitted shall notify the
13 applicant of acceptance or rejection within thirty days of
14 receipt of the application.

15 D. Within five days after receipt of notification
16 of acceptance of a child from the private school kindergarten
17 the applicant shall notify the state superintendent in
18 writing of the fact of acceptance. "

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

21 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--ISSUANCE OF
22 VOUCHER.--No later than five days after receipt of
23 notification of acceptance from an applicant, the state
24 superintendent shall issue a voucher to the applicant. The
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1 voucher shall be presented to the private school kindergarten
2 within ten days after receipt by the applicant. "

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

5 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--REDEMPTION
6 VALUE OF VOUCHER--REDEMPTION OF VOUCHER BY SCHOOL. --

7 A. Except as otherwise provided in Subsection C of
8 this section, the redemption value of a voucher is the sum
9 of:

10 (1) the amount of money that would be
11 generated by the child through the state equalization
12 guarantee distribution pursuant to the Public School Finance
13 Act if the student attended a public school kindergarten
14 within his attendance zone, excluding size, training or
15 experience adjustment for the school district or the public
16 school;

17 (2) a proportionate allocation for the local
18 school district's at-risk funding; and

19 (3) a proportionate per child amount for
20 transportation expenses that would be generated by the child
21 if he attended a public school kindergarten within his
22 attendance zone.

23 B. The department of education shall calculate the
24 redemption value of a child's voucher. The parent shall pay

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1 to the private school kindergarten any amount by which the
2 tuition and fees exceed the redemption value of the voucher.
3 Payment shall be made in accordance with the agreement of the
4 parent and the private school kindergarten.

5 C. The redemption value of a voucher shall not
6 exceed the tuition and fees charged by the participating
7 private school kindergarten for children not participating in
8 the program unless the cost of educating the child presenting
9 the voucher is greater than the tuition and fees charged, in
10 which case the value of the voucher shall not exceed those
11 costs. The state board shall establish a method of
12 determining costs of educating participating children and
13 that method shall be used in determining the redemption value
14 of a voucher.

15 D. Within fifteen days after receiving a voucher,
16 a private school kindergarten shall certify enrollment of the
17 child named on the voucher and shall certify the amount of
18 tuition and fees charged by the private school kindergarten
19 to the department of education.

20 E. A private school kindergarten or school
21 district shall redeem the value of the voucher from the
22 department of education in the following installments:
23 twenty-five percent of the value in September, twenty-five
24 percent of the value in November, twenty-five percent of the
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1 value in February and twenty-five percent of the value in
2 May. The installments shall be paid on the first day of the
3 applicable month.

4 F. If a participating child voluntarily withdraws
5 from a private school kindergarten and is enrolled in another
6 participating private school kindergarten or in a public
7 school kindergarten during the school year, the parent shall
8 notify the department of education. Upon receipt of proof of
9 enrollment in another private school kindergarten and
10 certification of tuition and fees charged by the new private
11 school, the unredeemed voucher installments shall be made to
12 the new private school kindergarten. Upon proof of
13 enrollment in a public school kindergarten, the remaining
14 redemption installments shall be made to the school district
15 in which the public school is located."

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

18 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--DUTIES OF
19 STATE SUPERINTENDENT.--The state superintendent shall:

20 A. recommend to the state board those procedures
21 and rules that are necessary to fully implement the Jumpstart
22 in Education Act;

23 B. be responsible for administering the program;
24 and
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1 C. ensure parents are informed annually of the
2 private school kindergartens participating in the program
3 pursuant to this section. "

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

6 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--
7 TRANSPORTATION. --The parent of a participating child shall be
8 responsible for transportation of the child to and from the
9 private school kindergarten. "

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

12 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT-- STANDARDS
13 FOR PARTICIPATING PRIVATE SCHOOL KINDERGARTENS. --

14 A. A private school kindergarten participating in
15 the program shall submit annually to the department of
16 education a performance audit of the private school
17 kindergarten prepared by an independent qualified performance
18 auditor that demonstrates that the school meets at least one
19 of the following standards:

20 (1) at least seventy percent of the children
21 in the program advance to grade one each year;

22 (2) the private school kindergarten's
23 average attendance rate for the children in the program is at
24 least ninety percent;

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1 (3) at least eighty percent of the children
2 in the program demonstrate significant academic progress; or

3 (4) at least seventy percent of the families
4 of children in the program meet parental involvement criteria
5 established by the private school kindergarten.

6 B. The state superintendent shall monitor the
7 performance of the children participating in the program. If
8 the state superintendent determines in a school year that the
9 private school kindergarten is not meeting at least one of
10 the standards set forth in Subsection A of this section, that
11 private school kindergarten may not participate in the
12 program in the following school year.

13 C. A private school kindergarten may not require a
14 student attending the school pursuant to the Jumpstart in
15 Education Act to participate in a religious activity if the
16 parent submits to the school's principal a written request
17 that the student be exempt from those activities."

18 Section 11. Section 22-2-2 NMSA 1978 (being Laws 1967,
19 Chapter 16, Section 5, as amended) is amended to read:

20 "22-2-2. STATE BOARD--DUTIES. -- Without limiting those
21 powers granted to the state board pursuant to Section 22-2-1
22 NMSA 1978, the state board shall perform the following
23 duties:

24 A. properly and uniformly enforce the provisions

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1 of the Public School Code;

2 B. determine policy for the operation of all
3 public schools and vocational education programs in the
4 state;

5 C. appoint a state superintendent;

6 D. purchase and loan instructional material to
7 students pursuant to the Instructional Material Law and adopt
8 rules relating to the use and operation of instructional
9 material depositories in the instructional material
10 distribution process;

11 E. designate courses of instruction to be taught
12 in all public schools in the state;

13 F. assess and evaluate all state institutions and
14 those private schools that desire state accreditation;

15 G. determine the qualifications for and issue a
16 certificate to ~~[any]~~ a person teaching, assisting teachers,
17 supervising an instructional program, counseling, providing
18 special instructional services or administering in public
19 schools, according to law and according to a system of
20 classification adopted and published by the state board;

21 H. suspend or revoke a certificate held by a
22 certified school instructor or certified school
23 administrator, according to law, for incompetency, immorality
24 or for any other good and just cause;

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1 I. make full and complete reports on consolidation
2 of school districts to the legislature;

3 J. prescribe courses of instruction, requirements
4 for graduation and standards for all public schools, for
5 private schools seeking state accreditation and for the
6 educational programs conducted in state institutions other
7 than the New Mexico military institute;

8 K. adopt rules for the administration of all
9 public schools and bylaws for its own administration;

10 L. require periodic reports on forms prescribed by
11 it from all public schools and attendance reports from
12 private schools;

13 M authorize adult educational programs to be
14 conducted in schools under its jurisdiction and adopt and
15 promulgate rules governing all such adult educational
16 programs;

17 N. require [~~any~~] a school under its jurisdiction
18 that sponsors athletic programs involving sports to mandate
19 that the participating student obtain catastrophic health and
20 accident insurance coverage, such coverage to be offered
21 through the school and issued by an insurance company duly
22 licensed pursuant to the laws of New Mexico;

23 O. require all accrediting agencies for public
24 schools in the state to act with its approval;

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1 P. accept and receive all grants of money from the
2 federal government or [~~any other~~] another agency for public
3 school purposes and disburse the money in the manner and for
4 the purpose specified in the grant;

5 Q. require prior approval for [~~any~~] an educational
6 program in a public school that is to be conducted,
7 sponsored, carried on or caused to be carried on by a private
8 organization or agency;

9 R. approve or disapprove all rules promulgated by
10 [~~any~~] an association or organization attempting to regulate
11 [~~any~~] a public school activity and invalidate [~~any~~] a rule in
12 conflict with [~~any rule~~] rules promulgated by the state
13 board. The state board shall require [~~any~~] an association or
14 organization attempting to regulate any public school
15 activity to comply with the provisions of the Open Meetings
16 Act and be subject to the inspection of the Public Records
17 Act. The state board may require performance and financial
18 audits of [~~any~~] an association or organization attempting to
19 regulate [~~any~~] a public school activity. The state board
20 shall have no power or control over the rules or the bylaws
21 governing the administration of the internal organization of
22 the association or organization;

23 S. review decisions made by the governing board or
24 officials of [~~any~~] an organization or association regulating
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1 [any] a public school activity, and [any] a decision of the
2 state board shall be final in respect thereto;

3 T. accept or reject [any] a charitable gift,
4 grant, devise or bequest. The particular gift, grant, devise
5 or bequest accepted shall be considered an asset of the
6 state;

7 U. establish and maintain regional centers, at its
8 discretion, for conducting cooperative services between
9 public schools and school districts within and among those
10 regions and to facilitate regulation and evaluation of school
11 programs;

12 V. assess and evaluate for accreditation purposes
13 at least one-third of all public schools each year through
14 visits by department of education personnel to investigate
15 the adequacy of pupil gain in standard required subject
16 matter, adequacy of pupil activities, functional feasibility
17 of public school and school district organization, adequacy
18 of staff preparation and other matters bearing upon the
19 education of the students;

20 W. provide for management and other necessary
21 personnel to operate [any] a public school or school district
22 that has failed to meet requirements of law, state board
23 standards or state board rules; provided that the operation
24 of the public school or school district shall not include
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1 [any] a consolidation or reorganization without the approval
2 of the local board of that school district. Until such time
3 as requirements of law, standards or rules have been met and
4 compliance is assured, the powers and duties of the local
5 school board shall be suspended;

6 X. establish and implement a plan that provides
7 for technical assistance to local school boards through
8 workshops and other in-service training methods; provided,
9 however, that no plan shall require mandatory attendance by
10 [any] a member of a local school board;

11 Y. submit a plan applying for funds available
12 [under] pursuant to Public Law 94-142 and disburse these
13 funds in the manner and for the purposes specified in the
14 plan;

15 Z. enforce requirements for home schools. Upon
16 finding that a home school is not in compliance with law, the
17 state board has authority to order that a student attend a
18 public school or a private school; [and]

19 AA. develop a systemic framework for professional
20 development that provides training to ensure quality teachers
21 and principals and that improves and enhances student
22 achievement. The state board shall work with public school
23 educators, the commission on higher education and
24 institutions of higher education to establish the framework.
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1 The framework shall include:

2 (1) the criteria for school districts to
3 apply for professional development funds, including an
4 evaluation component that will be used by the department of
5 education in approving local school district professional
6 development plans; and

7 (2) guidelines for developing extensive
8 professional development activities for school districts,
9 including teaching strategies, curriculum materials, distance
10 learning networks and web sites to ensure that the state
11 board's rules pertaining to content standards and benchmarks
12 are used by New Mexico teachers; and

13 BB. determine rules and policies for the operation
14 of the Jumpstart in Education Act. "

15 Section 12. SEVERABILITY.--If any part or application
16 of the Jumpstart in Education Act is held invalid, the
17 remainder or its application to other situations or persons
18 shall not be affected.

19 Section 13. EFFECTIVE DATE.--

20 A. The effective date of the provisions of
21 Sections 1 through 10 and 12 of this act is July 1, 2002.

22 B. The effective date of the provisions of Section
23 11 of this act is July 1, 2000.