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SENATE BILL 414

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ramsay L. Gorham

AN ACT

RELATING TO EDUCATION; AUTHORIZING OPPORTUNITY SCHOLARSHIPS  
FOR PUBLIC AND PRIVATE SCHOOL KINDERGARTEN; 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 "Opportunity Scholarship 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  
the option to take advantage of the best educational

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1 opportunities available to their school-age children;

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

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

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

11 B. The purpose of the Opportunity Scholarship Act  
12 is to establish a scholarship program that provides New  
13 Mexico's students the opportunity to attend their choice of a  
14 public or private school kindergarten class in order to best  
15 suit their individual needs and interests. "

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

18 "[NEW MATERIAL] DEFINITIONS. -- As used in the Opportunity  
19 Scholarship Act:

20 A. "local school district" means the school  
21 district where a student resides;

22 B. "program" means the opportunity scholarship  
23 program; and

24 C. "scholarship note" means a document that will  
25 be issued to a qualifying parent through the department of

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1 education that can be used to educate his child at a  
2 kindergarten in a public or eligible private school as defined  
3 in the Public School Code and pursuant to the Opportunity  
4 Scholarship Act. "

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

7 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING  
8 RULES. --

9 A. The department of education shall establish and  
10 bear the cost of administering the program.

11 B. The state board shall establish guidelines for  
12 the implementation and operation of the program.

13 C. A private school shall not be required to  
14 participate in the program.

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

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

21 "[NEW MATERIAL] ELIGIBLE STUDENTS. -- A student who is a  
22 resident of New Mexico and is at least five years of age prior  
23 to 12:01 a.m. September 1 of the school year or is a  
24 developmentally disabled three- or four-year-old child is  
25 eligible to participate in the program. "

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

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

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

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

8                       (2) maintain or develop antidiscrimination  
9 policies to prevent discrimination on the basis of race,  
10 color, national origin or ancestry; and

11                      (3) develop policies that do not discriminate  
12 against students who are recipients of opportunity  
13 scholarships.

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

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

20           "[NEW MATERIAL] PROCEDURES FOR USING SCHOLARSHIP NOTES. --

21           A. A parent may use a scholarship note to enroll  
22 his child in a public school kindergarten class outside of the  
23 school district in which the child resides.

24           B. A school district shall adopt specific, written  
25 standards for acceptance and rejection of scholarship notes

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1 provided for in the Opportunity Scholarship Act based on the  
2 capacity of class size, grade level or school buildings.

3 C. Not earlier than March 1 and not later than  
4 July 1 prior to the beginning of a school year, a student's  
5 parent or legal guardian may apply to the local school  
6 district superintendent to participate in the program. The  
7 local school district superintendent may waive the application  
8 deadline. The application shall contain the following  
9 information:

- 10 (1) the student's name and address;
- 11 (2) the student's date of birth;
- 12 (3) the student's social security number;
- 13 (4) the student's school attendance zone;
- 14 (5) the student's grade level;
- 15 (6) the name and address of the student's  
16 parent or legal guardian who is residing with the child;
- 17 (7) whether the student has a diagnosed  
18 developmental disability or learning disorder;
- 19 (8) whether the student speaks a language  
20 other than English as his principal language; and
- 21 (9) the name, tuition, fees and address of  
22 the public or private school kindergarten to which the student  
23 intends to apply.

24 D. No later than forty-five days after the  
25 application is received, the local school district

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1 superintendent shall act on the application, notify the parent  
2 or legal guardian of the value of the scholarship note and  
3 issue the scholarship note if the application is approved.

4 E. The scholarship note shall be issued to the  
5 student in the care of the student's parent or legal guardian.

6 F. The student and his parent or legal guardian  
7 shall solely select the public or private school kindergarten  
8 the student chooses to attend. The state shall not decide  
9 which school a student may attend. The state shall not advise  
10 or influence the student's selection of a school.

11 G. Not later than August 15 of each year, the  
12 local school district superintendent shall report to the  
13 department of education the ages, school attendance zones and  
14 scholarship note values of students participating in the  
15 program "

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

18 "[NEW MATERIAL] SCHOLARSHIP NOTE-- REDEMPTION. --

19 A. The value of the scholarship note shall be  
20 equal to the amount of money generated by the student through  
21 the state equalization guarantee distribution provided in the  
22 Public School Finance Act and a proportionate per student  
23 amount for transportation expenses if the student had attended  
24 a public school kindergarten in his school attendance zone.

25 The value of the scholarship note shall also include a

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1 proportionate allocation for the local school district's at-  
2 risk funding. The department of education shall calculate the  
3 value of a student's scholarship note using the state  
4 equalization guarantee distribution formula.

5 B. Subject to the value of the scholarship note  
6 set forth in Subsection A of this section, the scholarship  
7 note redemption value shall not exceed the tuition and fees  
8 charged by a private school for students not participating in  
9 the program unless the cost of educating the student  
10 presenting the scholarship note is greater than the tuition  
11 and fees charged, in which case the value of the scholarship  
12 note shall not exceed those costs.

13 C. Within fifteen days after receiving a  
14 scholarship note, a private school shall, in writing, certify  
15 the enrollment of the student named on the scholarship note  
16 and shall, in writing, certify the amount of tuition and fees  
17 charged by the private school to the department of education.

18 D. A private school or public school district  
19 located outside of the student's attendance zone shall redeem  
20 the value of the scholarship note from the local school  
21 district in the following installments: twenty-five percent  
22 of the value determined in Subsection A of this section in  
23 September, twenty-five percent of the value determined in  
24 Subsection A of this section in November, twenty-five percent  
25 of the value determined in Subsection A of this section in

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1 February and twenty-five percent of the value determined in  
2 Subsection A of this section in May. The installments shall  
3 be paid on the first day of the applicable month.

4 E. If a private school disenrolls a student during  
5 the school year or if the student is absent for ten  
6 consecutive days without explanation from his parent or legal  
7 guardian, the private school shall, in writing, notify the  
8 local school district, and the scholarship note redemption  
9 shall cease.

10 F. If a parent or legal guardian disenrolls a  
11 student from a private school kindergarten class and enrolls  
12 the student in another private school kindergarten class or in  
13 a public school kindergarten class during the school year, the  
14 parent or legal guardian shall, in writing, notify the local  
15 school district. Upon receipt of proof of enrollment in  
16 another private school kindergarten class and certification of  
17 tuition and fees charged by the new private school, the  
18 remaining scholarship redemption installments shall be made to  
19 the new private school. Upon proof of enrollment in a public  
20 school kindergarten class, the remaining redemption  
21 installments shall be made to the school district in which the  
22 public school kindergarten class is located. "

23 Section 9. Section 22-8-2 NMSA 1978 (being Laws 1978,  
24 Chapter 128, Section 3, as amended) is amended to read:

25 "22-8-2. DEFINITIONS.--As used in the Public School

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1 Finance Act:

2 A. "ADM" or "MEM" means membership;

3 B. "membership" means the total enrollment of  
4 qualified students on the current roll of a class or school on  
5 a specified day and all students who have qualified for  
6 receipt of scholarship notes pursuant to the Opportunity  
7 Scholarship Act. The current roll is established by the  
8 addition of original entries and reentries minus withdrawals.

9 Withdrawals of students, in addition to students formally  
10 withdrawn from the public school, include students absent from  
11 the public school for as many as ten consecutive school days;

12 C. "basic program ADM" or "basic program MEM"  
13 means the MEM of qualified students but excludes the full-  
14 time-equivalent MEM in early childhood education and three-  
15 and four-year-old students receiving special education  
16 services;

17 D. "cost differential factor" is the numerical  
18 expression of the ratio of the cost of a particular segment of  
19 the school program to the cost of the basic program in grades  
20 four through six;

21 E. "department" or "division" means the state  
22 department of public education;

23 F. "early childhood education ADM" or "early  
24 childhood education MEM" means the full-time-equivalent MEM of  
25 students attending approved early childhood education

1 programs;

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

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

10 I. "program cost" is the product of the total  
11 number of program units to which a school district is entitled  
12 multiplied by the dollar value per program unit established by  
13 the legislature;

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

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

21 L. "public money" or "public funds" means all  
22 money from public or private sources received by a local  
23 school board or officer or employee of a local school board  
24 for public use;

25 M. "qualified student" means a public school

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student who:

(1) has not graduated from high school;

(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the state board for public school students; and

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

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

(5) has not reached his twenty-second birthday on the first day of the school year and is receiving special education services pursuant to ~~[regulation]~~ rule of the state board; and

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