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HOUSE BILL 27

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

John A. Sanchez

AN ACT

RELATING TO EDUCATION; PROVIDING ELEMENTARY AND SECONDARY
EDUCATION REFORMS; CHANGING SCHOOL ENROLLMENT PRIORITY TO
INCLUDE STUDENTS FROM PROBATIONARY OR NEEDS-IMPROVEMENT
SCHOOLS; REQUIRING ANNUAL CRITERION-REFERENCED READING AND
MATHEMATICS TESTING IN GRADES THREE THROUGH EIGHT; REQUIRING
A STATE-ISSUED STUDENT IDENTIFICATION NUMBER; REQUIRING
BEFORE- OR AFTER-SCHOOL TUTORING FOR STUDENTS WHO FAIL TO
ATTAIN GRADE-LEVEL PROFICIENCY; ENACTING THE ELEMENTARY AND
SECONDARY SCHOOL VOUCHER ACT; INCREASING THE NUMBER OF
CONVERSION CHARTER SCHOOLS; CLARIFYING CHARTER SCHOOL ACCESS
TO SCHOOL DISTRICT PROPERTY AND COSTS FOR USING SUCH
PROPERTY; DECREASING THE TIME FOR APPROVAL OF CHARTER
SCHOOLS; ALLOWING CONVERSION SCHOOLS TO CONTINUE TO USE THEIR
FACILITIES AND EQUIPMENT; PROVIDING LIMITED RECIPROCITY FOR
OUT-OF-STATE TEACHERS AND SCHOOL ADMINISTRATORS; ENACTING THE
TEACHER MERIT PAY ACT; CREATING A COMMITTEE; PROVIDING POWERS
AND DUTIES; REQUIRING SCHOOL DISTRICTS TO NOTIFY EMPLOYEES OF

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1 CERTAIN RIGHTS REGARDING USE OF COLLECTED UNION DUES;
2 ALLOWING PERSONS WHO HAVE COMPLETED TENTH GRADE TO TEST OUT
3 OF COMPULSORY SCHOOL ATTENDANCE; ELIMINATING THE MULTIPLE
4 LIST OF INSTRUCTIONAL MATERIALS; ALLOWING PUBLIC AND PRIVATE
5 SCHOOLS, STATE INSTITUTIONS AND ADULT BASIC EDUCATION CENTERS
6 TO SELECT THEIR INSTRUCTIONAL MATERIALS; ALLOWING PARENTS TO
7 CHOOSE AN ENGLISH IMMERSION PROGRAM FOR THEIR NON-ENGLISH-
8 SPEAKING OR LIMITED-ENGLISH-PROFICIENT SCHOOL-AGE CHILD;
9 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;
10 MAKING AN APPROPRIATION.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975,
14 Chapter 338, Section 1, as amended by Laws 2001, Chapter 239,
15 Section 1 and by Laws 2001, Chapter 244, Section 1) is
16 amended to read:

17 "22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING
18 AND ENROLLING--OPEN ENROLLMENT.--

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

23 B. A free public school education in those courses
24 already offered to persons pursuant to the provisions of
25 Subsection A of this section shall be available to any person
who is a resident of this state and has received a high
school diploma or its equivalent if there is available space

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1 in such courses.

2 C. Any person entitled to a free public school
3 education pursuant to the provisions of this section may
4 enroll or re-enroll in a public school at any time and,
5 unless required to attend school pursuant to the Compulsory
6 School Attendance Law, may withdraw from a public school at
7 any time.

8 D. In adopting and promulgating rules concerning
9 the enrollment of students transferring from a home school or
10 private school to the public schools, the local school board
11 shall provide that the grade level at which the transferring
12 student is placed is appropriate to the age of the student or
13 to the student's score on a student achievement test
14 administered according to the statewide and local school
15 district testing programs as determined by the state
16 superintendent or both.

17 E. A local school board shall adopt and promulgate
18 rules governing enrollment and re-enrollment at public
19 schools other than charter schools within the school
20 district. These rules shall include:

21 (1) definition of the school district
22 boundary and the boundaries of attendance areas for each
23 public school;

24 (2) for each public school, definition of
25 the boundaries of areas outside the school district or
private school boundary or within the school district but
outside the public school's attendance area and within a

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1 distance of the public school that would not be served by a
2 school bus route as determined pursuant to Section 22-16-4
3 NMSA 1978 if enrolled, which areas shall be designated as
4 "walk zones";

5 (3) priorities for enrollment of students as
6 follows:

7 (a) first, persons residing within the
8 school district and within the attendance area of a public
9 school;

10 (b) second, students from a
11 probationary or needs-improvement school who are not at
12 grade-level proficiency;

13 [~~(b) second~~] (c) third, persons who
14 previously attended the public school; and

15 [~~(c) third~~] (d) fourth, all other
16 applicants;

17 (4) establishment of maximum allowable class
18 size if smaller than that permitted by law; and

19 (5) rules pertaining to grounds for denial
20 of enrollment or re-enrollment at schools within the school
21 district and the school district's hearing and appeals
22 process for such a denial. Grounds for denial of enrollment
23 or re-enrollment shall be limited to:

24 (a) a student's expulsion from any
25 school district or private school in this state or any other
state during the preceding twelve months; or

(b) a student's behavior in another

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1 school district or private school in this state or any other
2 state during the preceding twelve months that is detrimental
3 to the welfare or safety of other students or school
4 personnel.

5 F. In adopting and promulgating rules governing
6 enrollment and re-enrollment at public schools other than
7 charter schools within the district, a local school board may
8 establish additional enrollment preferences for rules
9 admitting students in accordance with the second ~~[and third]~~
10 through fourth priorities of enrollment set forth in
11 Subparagraphs (b) ~~[and (c)]~~ through (d) of Paragraph (3) of
12 Subsection E of this section. The additional enrollment
13 preferences may include:

- 14 (1) after-school child care for students;
- 15 (2) child care for siblings of students
16 attending the public school;
- 17 (3) children of employees employed at the
18 public school;
- 19 (4) extreme hardship;
- 20 (5) location of a student's previous school;
- 21 (6) siblings of students already attending
22 the public school; and
- 23 (7) student safety.

24 G. As long as the maximum allowable class size
25 established by law or by rule of a local school board,
whichever is lower, is not met or exceeded in a public school
by enrollment of first-priority persons, the public school

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1 shall enroll other persons applying in the priorities stated
2 in the school district rules adopted pursuant to Subsections
3 E and F of this section. If the maximum would be exceeded by
4 enrollment of an applicant in the second or third priority,
5 the public school shall establish a waiting list. As
6 classroom space becomes available, persons highest on the
7 waiting list within the highest priority on the list shall be
8 notified and given the opportunity to enroll."

9 Section 2. Section 22-1-6 NMSA 1978 (being Laws 1989,
10 Chapter 308, Section 1, as amended) is amended to read:

11 "22-1-6. ANNUAL SCHOOL DISTRICT ACCOUNTABILITY REPORT
12 REQUIRED.--

13 A. School districts are required to publish an
14 annual school district accountability report to provide
15 district-wide data for the previous school year. The state
16 board shall establish the format for the accountability
17 reports and ensure that the relevant data is provided
18 annually to parents, students, educators, policymakers,
19 legislators, the governor and business and economic
20 development organizations. The department of education shall
21 establish the following five indices through which public
22 school performance shall be measured and reported to school
23 districts:

24 (1) student achievement as measured by a
25 nationally norm-referenced test approved by the department of
education or through a performance-based instrument to
measure proficiency;

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- 1 (2) school safety;
- 2 (3) the dropout rate;
- 3 (4) attendance; and
- 4 (5) parent and community involvement.

5 B. The department of education shall establish the
6 methodology for measuring each of the five indices.

7 ~~[B. Effective July 1, 1999]~~ C. School districts
8 shall annually administer a nationally norm-referenced test
9 or a standards-based assessment to all students enrolled in a
10 public school in grades three through nine. Only students
11 with disabilities deemed incapable of taking the test as
12 determined on their individual educational programs shall be
13 exempted from this requirement. Students who have been
14 assessed as non-English or limited English proficient using
15 state approved language assessments and meeting required
16 thresholds shall be exempted from this test and provided an
17 alternative norm-referenced or standards-based assessment in
18 their primary language. School districts shall report the
19 following to the department of education:

- 20 (1) the results of the norm-referenced test
21 or standards-based assessment;
- 22 (2) the number of enrolled students who did
23 not take the test, the school in which they are enrolled and
24 the reason for the exemption from the test; and
- 25 (3) separately and as part of the aggregate
report, the results of assessments of students enrolled in
special education class A, B, C and D programs who took the

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1 test and the school in which they are enrolled, except in
2 cases where the number of students being reported is less
3 than ten.

4 ~~[E.]~~ D. School districts shall set two-, four- and
5 six-year benchmarks in each of the five indices for each
6 public school. Local school boards may establish additional
7 indices, if reviewed by the department of education, through
8 which to measure the school district's performance in other
9 areas.

10 E. School districts shall annually administer and
11 report department-of-education-approved criterion-referenced
12 tests for reading and mathematics in grades three through
13 eight.

14 ~~[D.]~~ F. The annual accountability report shall
15 also include the results of a survey of parents' views of the
16 quality of their children's school. The survey shall be
17 conducted each year in time to include the results in the
18 annual accountability report. The survey shall compile the
19 results of a written questionnaire that shall be sent home
20 with the students to be given to their parents. The survey
21 may be completed anonymously. The survey shall be no more
22 than one page, shall be clearly and concisely written and
23 shall include not more than twenty questions that shall be
24 answered with options of a simple sliding scale ranging from
25 "strongly agree" to "strongly disagree" and shall include the
optional response "don't know". The survey shall also
include a request for optional written comments, which may be

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1 written on the back of the questionnaire form. The
2 questionnaire shall include questions in the following areas:

3 (1) parent-teacher-school relationship and
4 communication;

5 (2) quality of educational and
6 extracurricular programs;

7 (3) instructional practices and techniques;

8 (4) resources;

9 (5) school personnel, including the school
10 principal; and

11 (6) parents' view of teaching staff
12 expectations for the students.

13 G. The state board shall develop no more than ten
14 of the questions, which shall be reviewed by the legislative
15 education study committee prior to implementation. No more
16 than five questions shall be developed by the local school
17 board and no more than five questions shall be developed by
18 the staffs of each individual school site; provided that at
19 least half of those questions shall be developed by teachers
20 rather than administrators, in order to gather information
21 that is specific to the particular community surveyed. The
22 questionnaires shall indicate the public school site and
23 shall be tabulated by the department of education within
24 thirty days of receipt and shall be returned to the
25 respective schools to be disseminated to all parents.

[E.] H. The annual accountability report shall
also include a report of all federal funds distributed

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1 directly to the school district or received by the district
2 from the department of education. For each distribution, the
3 purpose for which the money was received shall be stated with
4 a detailed accounting of the purposes for which the funds
5 were expended.

6 [F-] I. The annual accountability report for each
7 school district shall be adopted by the local school board,
8 may be published no later than November 15 of each year and
9 may be published at least once each school year in a
10 newspaper of general circulation in the county where the
11 school district is located. In publication, the report shall
12 be titled "The School District Report Card" and disseminated
13 in accordance with guidelines established by the state board
14 to ensure effective communication with parents, students,
15 educators, local policymakers and business and community
16 organizations.

17 [G-] J. The department of education shall create
18 an accountability data system through which data from each
19 public school and each school district may be compiled and
20 reviewed. The department of education shall provide the
21 resources to train school district personnel in the use of
22 the accountability data system.

23 [H-] K. The department of education shall verify
24 data submitted by the school districts.

25 [I-] L. The state board shall measure the
performance of every public school in New Mexico. Public
schools achieving the highest level of performance shall be

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1 eligible for supplemental incentive funding. The state board
2 shall establish the corrective actions and interventions
3 necessary for public schools whose performance level is low.

4 ~~[C.]~~ M. The school district shall submit a copy of
5 its annual accountability report to the legislative finance
6 committee, the legislative education study committee and the
7 library of the legislative council service."

8 Section 3. Section 22-2-2 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 5, as amended by Laws 2001, Chapter 286,
10 Section 1 and by Laws 2001, Chapter 299, Section 5) is
11 amended to read:

12 "22-2-2. STATE BOARD--DUTIES.--Without limiting those
13 powers granted to the state board pursuant to Section 22-2-1
14 NMSA 1978, the state board shall perform the following
15 duties:

16 A. properly and uniformly enforce the provisions
17 of the Public School Code;

18 B. determine policy for the operation of all
19 public schools and vocational education programs in the
20 state, including vocational programs that are part of a
21 juvenile construction industries initiative for juveniles who
22 are committed to the custody of the children, youth and
23 families department;

24 C. appoint a state superintendent;

25 D. purchase and loan instructional material to
students pursuant to the Instructional Material Law and adopt
rules relating to the use and operation of instructional

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1 material depositories in the instructional material
2 distribution process;

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

5 F. assess and evaluate all state institutions and
6 those private schools that desire state accreditation;

7 G. determine the qualifications for and issue a
8 certificate to any person teaching, assisting teachers,
9 supervising an instructional program, counseling, providing
10 special instructional services or administering in public
11 schools according to law and according to a system of
12 classification adopted and published by the state board;

13 H. suspend or revoke a certificate held by a
14 certified school instructor or certified school administrator
15 according to law for incompetency, immorality or any other
16 good and just cause;

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

19 J. prescribe courses of instruction, requirements
20 for graduation and standards for all public schools, for
21 private schools seeking state accreditation and for the
22 educational programs conducted in state institutions other
23 than the New Mexico military institute;

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

L. require periodic reports on forms prescribed by
it from all public schools and attendance reports from

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1 private schools;

2 M. authorize adult educational programs to be
3 conducted in schools under its jurisdiction and adopt and
4 promulgate rules governing all such adult educational
5 programs;

6 N. require any school under its jurisdiction that
7 sponsors athletic programs involving sports to mandate that
8 the participating student obtain catastrophic health and
9 accident insurance coverage, such coverage to be offered
10 through the school and issued by an insurance company duly
11 licensed pursuant to the laws of New Mexico;

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

14 P. accept and receive all grants of money from the
15 federal government or any other agency for public school
16 purposes and disburse the money in the manner and for the
17 purpose specified in the grant;

18 Q. require prior approval for any educational
19 program in a public school that is to be conducted,
20 sponsored, carried on or caused to be carried on by a private
21 organization or agency;

22 R. approve or disapprove all rules promulgated by
23 any association or organization attempting to regulate any
24 public school activity and invalidate any rule in conflict
25 with any rule promulgated by the state board. The state
board shall require any association or organization
attempting to regulate any public school activity to comply

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1 with the provisions of the Open Meetings Act and be subject
2 to the inspection of the Public Records Act. The state board
3 may require performance and financial audits of any
4 association or organization attempting to regulate any public
5 school activity. The state board shall have no power or
6 control over the rules or the bylaws governing the
7 administration of the internal organization of the
8 association or organization;

9 S. review decisions made by the governing board or
10 officials of any organization or association regulating any
11 public school activity, and any decision of the state board
12 shall be final in respect thereto;

13 T. accept or reject any charitable gift, grant,
14 devise or bequest. The particular gift, grant, devise or
15 bequest accepted shall be considered an asset of the state;

16 U. establish and maintain regional centers, at its
17 discretion, for conducting cooperative services between
18 public schools and school districts within and among those
19 regions and to facilitate regulation and evaluation of school
20 programs;

21 V. assess and evaluate for accreditation purposes
22 at least one-third of all public schools each year through
23 visits by department of education personnel to investigate
24 the adequacy of pupil gain in standard required subject
25 matter, adequacy of pupil activities, functional feasibility
of public school and school district organization, adequacy
of staff preparation and other matters bearing upon the

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1 education of the students;

2 W. provide for management and other necessary
3 personnel to operate any public school or school district
4 that has failed to meet requirements of law, state board
5 standards or state board rules; provided that the operation
6 of the public school or school district shall not include any
7 consolidation or reorganization without the approval of the
8 local board of that school district. Until such time as
9 requirements of law, standards or rules have been met and
10 compliance is assured, the powers and duties of the local
11 school board shall be suspended;

12 X. establish and implement a plan that provides
13 for technical assistance to local school boards through
14 workshops and other in-service training methods; provided,
15 however, that no plan shall require mandatory attendance by
16 any member of a local school board;

17 Y. submit a plan applying for funds available
18 under Public Law 94-142 and disburse these funds in the
19 manner and for the purposes specified in the plan;

20 Z. enforce requirements for home schools. Upon
21 finding that a home school is not in compliance with law, the
22 state board has authority to order that a student attend a
23 public school or a private school;

24 AA. develop a systemic framework for professional
25 development that provides training to ensure quality teachers
and principals and that improves and enhances student
achievement. The state board shall work with public school

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1 educators, the commission on higher education and
2 institutions of higher education to establish the framework.

3 The framework shall include:

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

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

15 BB. approve education curricula and programs
16 offered in ~~[all]~~ two-year public post-secondary educational
17 ~~[institutions, including northern New Mexico state school,~~
18 ~~except those in Chapter 21, Article 12 NMSA 1978]~~
19 institutions that lead to certificates for alternative
20 certification for degree individuals pursuant to Section
21 22-10-3.5 NMSA 1978 or certification for educational
22 assistant; ~~[and]~~

23 CC. withhold program approval from a college of
24 education or teacher preparation program that fails to offer
25 a course on teaching reading that:

- (1) is based upon current research;
- (2) aligns with state board-adopted reading

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1 standards;

2 (3) includes strategies and assessment
3 measures to ensure that beginning teachers are proficient in
4 teaching reading; and

5 (4) was designed after seeking input from
6 experts in the education field; and

7 DD. provide for the issuance of a state
8 identification number for each public school student for use
9 in the statewide student data management system."

10 Section 4. Section 22-2-6.3 NMSA 1978 (being Laws 1986,
11 Chapter 94, Section 3, as amended) is amended to read:

12 "22-2-6.3. DEFINITIONS.--As used in the Public School
13 Insurance Authority Act:

14 A. "authority" means the public school insurance
15 authority;

16 B. "board" means the board of directors of the
17 public school insurance authority;

18 C. "charter school" means a school organized as a
19 charter school pursuant to the provisions of the 1999 Charter
20 Schools Act or the Charter Schools Act;

21 D. "director" means the director of the public
22 school insurance authority;

23 E. "educational entities" means state educational
24 institutions as enumerated in Article 12, Section 11 of the
25 constitution of New Mexico and other state diploma, degree-
granting and certificate-granting post-secondary educational
institutions and regional education cooperatives;

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1 F. "fund" means the public school insurance fund;

2 G. "group health insurance" means coverage that
3 includes life insurance, accidental death and dismemberment,
4 medical care and treatment, dental care, eye care and other
5 coverages as determined by the authority;

6 H. "risk-related coverage" means coverage that
7 includes property and casualty, general liability, auto and
8 fleet, workers' compensation and other casualty insurance;
9 and

10 I. "school district" means a school district as
11 defined in Subsection K of Section 22-1-2 NMSA 1978,
12 excluding any school district with a student enrollment in
13 excess of sixty thousand students."

14 Section 5. Section 22-2-8.4 NMSA 1978 (being Laws 1986,
15 Chapter 33, Section 5, as amended by Laws 2001, Chapter 257,
16 Section 1 and by Laws 2001, Chapter 276, Section 1) is
17 amended to read:

18 "22-2-8.4. GRADUATION REQUIREMENTS.--

19 A. At the end of the eighth grade or during the
20 ninth grade, each student shall prepare an individual program
21 of study for grades nine through twelve. The program of
22 study shall be signed by a student's parent or guardian.

23 B. Beginning with students entering the ninth
24 grade in the 1986-87 school year, successful completion of a
25 minimum of twenty-three units shall be required for
graduation. These units shall be as follows:

(1) four units in English, with major

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1 emphasis on grammar and literature;

2 (2) three units in mathematics;

3 (3) two units in science, one of which shall
4 have a laboratory component;

5 (4) three units in social science, which
6 shall include United States history and geography, world
7 history and geography, and government and economics;

8 (5) one unit in physical fitness;

9 (6) one unit in communication skills, with
10 major emphasis on writing and speaking, which may include a
11 language other than English; and

12 (7) nine elective units. Only the following
13 elective units shall be counted toward meeting the
14 requirements for graduation: fine arts, i.e., music, band,
15 chorus and art; practical arts; physical education; languages
16 other than English; speech; drama; vocational education;
17 mathematics; science; English; R.O.T.C.; social science;
18 computer science; health education; American sign language;
19 and other electives approved by the state board.

20 With the approval of the local school board,
21 participation on an athletic team or in an athletic sport
22 during the school day may count toward fulfillment of the
23 physical education required unit.

24 C. Final examinations shall be administered to all
25 students in all classes offered for credit.

D. Except as provided in Section 22-12-2 NMSA
1978, no student shall receive a high school diploma who has

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1 not passed a state graduation examination in the subject
2 areas of reading, English, math, writing, science and social
3 science. Beginning with the 1996-97 school year, the state
4 graduation examinations on social science shall include a
5 section on the constitution of the United States and the
6 constitution of New Mexico. If a student exits from the
7 school system at the end of grade twelve without having
8 passed a state graduation examination, he shall receive an
9 appropriate state certificate indicating the number of
10 credits earned and the grade completed. If within five years
11 after a student exits from the school system he takes and
12 passes the state graduation examination, he may receive a
13 high school diploma.

14 E. The state board may establish a policy to
15 provide for administrative interpretations to clarify
16 curricular and testing provisions of the Public School
17 Code."

18 Section 6. Section 22-2-8.6 NMSA 1978 (being Laws
19 1986, Chapter 33, Section 7, as amended) is amended to
20 read:

21 "22-2-8.6. EDUCATIONAL CONTENT STANDARDS--REMEDICATION
22 PROGRAMS--PROMOTION POLICIES--RESTRICTIONS.--

23 A. The state board shall identify educational
24 content standards as measured by the state assessment
25 program and establish performance levels of proficiency.
Remediation programs, academic improvement programs and
promotion policies shall be aligned with content standards

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1 and based on the following:

2 (1) statewide assessment results;

3 (2) alternative school-district-determined
4 assessment results; and

5 (3) student performance in school.

6 B. Local school boards shall approve district-
7 developed remediation programs and academic improvement
8 programs to provide special instructional assistance to
9 students in grades one through eight who fail to attain a
10 level of proficiency established by the content standards.

11 The programs shall require individual tutoring before or
12 after school for every student who fails to attain grade-
13 level proficiency. The cost of remediation programs and
14 academic improvement programs shall be borne by the school
15 district. Remediation programs and academic improvement
16 programs shall be incorporated into the school district's
17 educational plan for student success and filed with the
18 department of education.

19 C. The cost of summer and extended day
20 remediation programs and academic improvement programs,
21 including required individual tutoring before or after
22 school, offered in grades nine through twelve shall be
23 borne by the parent or guardian; however, where parents are
24 determined to be indigent according to guidelines
25 established by the state board, the local school ~~[board]~~
district shall bear those costs.

D. Diagnosis of weaknesses identified by the

1 reading or writing performance assessment instrument
2 administered pursuant to Section 22-2-8.5 NMSA 1978 may
3 serve as criteria in assessing the need for remedial
4 programs or retention.

5 E. A parent or guardian shall be notified no
6 later than the end of the second grading period that his
7 child is failing to attain appropriate grade-level
8 proficiency in content standards, and a conference
9 consisting of the parent or guardian and the teacher shall
10 be held to discuss possible remediation programs available
11 to assist the student in attaining the required level of
12 proficiency established by the content standards. Specific
13 academic deficiencies and remediation strategies shall be
14 explained to the student's parent or guardian and a written
15 plan developed containing timelines, academic expectations
16 and the measurements to be used to verify that a student
17 has overcome his academic deficiencies. Remediation
18 programs and academic improvement programs include
19 tutoring, extended day or week programs, summer programs
20 and other research-based models for student improvement.

21 F. At the end of grades one through seven, three
22 options are available, dependent on a student's attainment
23 of the required level of proficiency established by the
24 content standards:

25 (1) the student has attained the level of
proficiency required by the content standards and shall
enter the next higher grade;

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(2) the student has not attained the required level of proficiency and shall participate in the required level of remediation. Upon certification by the school district that the student has successfully overcome his areas of deficiency, he shall enter the next higher grade; or

(3) the student has not attained the level of proficiency required by the content standards upon completion of the prescribed remediation program and upon the recommendation of the certified school instructor and school principal shall either be:

(a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to attain proficiency of content standards, at which time the student shall enter the next higher grade; or

(b) promoted to the next grade if the parent or guardian refuses to allow his child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent or guardian shall sign a waiver indicating his desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining timelines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to attain

1 proficiency of content standards at the end of that year
2 shall then be retained in the same grade for no more than
3 one year in order to have additional time to master the
4 required content standards.

5 G. At the end of the eighth grade, a student who
6 fails to attain proficiency of content standards shall be
7 retained in the eighth grade for no more than one school
8 year in order to attain proficiency of content standards or
9 if the student assistance team determines that retention of
10 the student in the eighth grade will not assist the student
11 attain the appropriate level of academic achievement and
12 proficiency of standards, the team shall design a high
13 school graduation plan to meet the student's needs for
14 entry into the work force or a post-secondary educational
15 institution. If a student is retained in the eighth grade,
16 the student assistance team shall develop a specific
17 academic improvement plan that clearly delineates the
18 student's academic deficiencies and prescribes a specific
19 remediation plan to address those academic deficiencies.

20 H. A student who fails to attain proficiency of
21 content standards for two successive school years shall be
22 referred to the student assistance team for placement in an
23 alternative program designed by the school district.
24 Alternative program plans shall be filed with the
25 department of education.

I. Promotion and retention decisions affecting a
student enrolled in special education shall be made in

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1 accordance with the provisions of the individual
2 educational plan established for that student.

3 J. The school district shall establish a
4 reasonable hourly tutoring rate for tutors who provide
5 individual tutoring services for students who have not
6 attained grade-level proficiency.

7 [~~J.~~] K. For the purposes of this section:

8 (1) "academic improvement plan" means a
9 written document developed by the student assistance team
10 that describes the specific content standards required for
11 a certain grade level that a student has not achieved and
12 that prescribes specific remediation programs such as
13 summer school, extended day or week school and tutoring;

14 (2) "alternative school-district-
15 determined assessment results" means the results obtained
16 from student assessments developed by a local school board
17 and conducted at an elementary grade level or middle school
18 level;

19 (3) "educational plan for student success"
20 means a student-centered tool developed to define the role
21 of the academic improvement plan within the district that
22 addresses methods to improve a student's learning and
23 success in school and that identifies specific measures of
24 a student's progress;

25 (4) "statewide assessment results" means
the results obtained from the New Mexico achievement
assessment that is administered annually to grades three

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1 through nine pursuant to state board rule; and

2 (5) "student assistance team" means a
3 group consisting of a student's:

- 4 (a) teacher;
- 5 (b) school counselor;
- 6 (c) school administrator; and
- 7 (d) parent or legal guardian."

8 Section 7. Section 22-8-2 NMSA 1978 (being Laws 1978,
9 Chapter 128, Section 3, as amended) is amended to read:

10 "22-8-2. DEFINITIONS.--As used in the Public School
11 Finance Act:

- 12 A. "ADM" or "MEM" means membership;
- 13 B. "membership" means the total enrollment of
14 qualified students on the current roll of a class or school
15 on a specified day and includes students on the roll of
16 that class or school who have qualified for receipt of
17 voucher payments pursuant to the Elementary and Secondary
18 School Voucher Act. The current roll is established by the
19 addition of original entries and reentries minus
20 withdrawals. Withdrawals of students, in addition to
21 students formally withdrawn from the public school, include
22 students absent from the public school for as many as ten
23 consecutive school days;

24 C. "basic program ADM" or "basic program MEM"
25 means the MEM of qualified students but excludes the full-
time-equivalent MEM in early childhood education and three-
and four-year-old students receiving special education

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1 services;

2 D. "cost differential factor" is the numerical
3 expression of the ratio of the cost of a particular segment
4 of the school program to the cost of the basic program in
5 grades four through six;

6 E. "department" or "division" means the state
7 department of public education;

8 F. "early childhood education ADM" or "early
9 childhood education MEM" means the full-time-equivalent MEM
10 of students attending approved early childhood education
11 programs;

12 G. "full-time-equivalent ADM" or "full-time-
13 equivalent MEM" is that membership calculated by applying
14 to the MEM in an approved public school program the ratio
15 of the number of hours per school day devoted to the
16 program to six hours or the number of hours per school week
17 devoted to the program to thirty hours;

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

20 I. "program cost" is the product of the total
21 number of program units to which a school district is
22 entitled multiplied by the dollar value per program unit
23 established by the legislature;

24 J. "program element" is that component of a
25 public school system to which a cost differential factor is
applied to determine the number of program units to which a
school district is entitled, including but not limited to

1 MEM, full-time-equivalent MEM, teacher, classroom or public
2 school;

3 K. "program unit" is the product of the program
4 element multiplied by the applicable cost differential
5 factor;

6 L. "public money" or "public funds" means all
7 money from public or private sources received by a local
8 school board or officer or employee of a local school board
9 for public use;

10 M. "qualified student" means a public school
11 student who:

12 (1) has not graduated from high school;

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

16 (3) is at least five years of age prior to
17 12:01 a.m. on September 1 of the school year; or

18 (4) is at least three years of age at any
19 time during the school year and is receiving special
20 education services pursuant to regulation of the state
21 board; or

22 (5) has not reached his twenty-second
23 birthday on the first day of the school year and is
24 receiving special education services pursuant to regulation
25 of the state board; and

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

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1 Section 8. Section 22-8B-1 NMSA 1978 (being Laws
2 1999, Chapter 281, Section 1) is amended to read:

3 "22-8B-1. SHORT TITLE.--~~[Sections 1 through 15 of~~
4 ~~this act]~~ Chapter 22, Article 8B NMSA 1978 may be cited as
5 the "1999 Charter Schools Act"."

6 Section 9. Section 22-8B-4 NMSA 1978 (being Laws
7 1999, Chapter 281, Section 4, as amended) is amended to
8 read:

9 "22-8B-4. CHARTER SCHOOLS' RIGHTS AND
10 RESPONSIBILITIES--OPERATION.--

11 A. A charter school shall be subject to all
12 federal and state laws and constitutional provisions
13 prohibiting discrimination on the basis of disability,
14 race, creed, color, gender, national origin, religion,
15 ancestry or need for special education services.

16 B. A charter school shall be administered and
17 governed by a governing body in the manner set forth in the
18 charter.

19 C. A charter school shall be responsible for its
20 own operation, including preparation of a budget,
21 contracting for services and personnel matters.

22 D. A conversion school may choose to use the
23 school district facilities and equipment it had been using
24 prior to conversion. A charter school may ~~[negotiate or]~~
25 contract with a local school district, a university or
college or any third party for the use of a facility, its
operation and maintenance and the provision of any service

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1 or activity that the charter school is required to perform
2 in order to carry out the educational program described in
3 its charter.

4 ~~[E. In no event shall a charter school be~~
5 ~~required to pay rent for space that is deemed available, as~~
6 ~~negotiated by contract, in school district facilities;~~
7 ~~provided that the facilities can be made available at no~~
8 ~~cost to the district. All costs for the operation and~~
9 ~~maintenance of the facilities used by the charter school~~
10 ~~shall be subject to negotiation between the charter school~~
11 ~~and the district.~~

12 ~~F. A charter school shall negotiate with a local~~
13 ~~school district to provide transportation to students~~
14 ~~eligible for transportation under the provisions of the~~
15 ~~Public School Code. The local school district, in~~
16 ~~conjunction with the charter school, may establish a limit~~
17 ~~for student transportation to and from the charter school~~
18 ~~site not to extend beyond the local school district~~
19 ~~boundary.~~

20 ~~G. A charter school may negotiate with a local~~
21 ~~school district for capital expenditures.]~~

22 E. A charter school shall not be required to pay
23 rent for school district facilities if they can be provided
24 at no cost to the school district. The charter school may
25 pay the costs of operation and maintenance of the
facilities or it may contract with the school district to
provide facility operation and maintenance services. If

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1 facilities are available, but cannot be provided at no cost
2 to the school district, the school district may charge no
3 more than the actual cost of providing the facilities.

4 F. Charter school facilities owned by a school
5 district or charter school are eligible for state and local
6 capital outlay funds and shall be included in the school
7 district's facilities master plan.

8 G. In accordance with the Public School Code, a
9 school district shall provide transportation to charter
10 school students who live in the school district and who are
11 eligible for transportation. The charter school shall
12 provide information required for the school district to
13 budget the cost of transporting charter school students.

14 H. A charter school shall be a nonsectarian,
15 nonreligious and non-home-based public school that operates
16 within a public school district.

17 I. Except as otherwise provided in the Public
18 School Code, a charter school shall not charge tuition or
19 have admission requirements.

20 J. A charter school shall be subject to the
21 provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

22 K. A charter school may acquire [~~pledge~~] and
23 dispose of property; provided that, upon termination of the
24 charter, all assets of the charter school shall revert to
25 the local school board that authorized the charter.

L. A charter school may accept or reject any
charitable gift, grant, devise or bequest; provided that no

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1 such gift, grant, devise or bequest shall be accepted if
2 subject to any condition contrary to law or to the terms of
3 the charter. The particular gift, grant, devise or bequest
4 shall be considered an asset of the charter school to which
5 it is given.

6 M. A charter school may contract and sue and be
7 sued. A local school board that approves a charter school
8 shall not be liable for any acts or omissions of the
9 charter school.

10 N. A charter school shall comply with all state
11 and federal health and safety requirements applicable to
12 public schools."

13 Section 10. Section 22-8B-6 NMSA 1978 (being Laws
14 1999, Chapter 281, Section 6) is amended to read:

15 "22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION
16 PROCESS--AUTHORIZATION.--

17 A. The local school board shall have the
18 authority to approve the establishment of a charter school
19 within the local school district in which it is located.

20 B. A charter school applicant shall apply to a
21 local school board for a charter. An applicant shall only
22 submit an application in the school district in which the
23 school is located. Applications shall be submitted by
24 October 1 to be eligible for consideration for the
25 following school year. The October 1 deadline may be
waived upon agreement of the applicant and the local school
board.

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1 C. An application for a start-up school may be
2 made by one or more teachers, parents or community members.

3 D. An application for a conversion school shall
4 include a petition of support signed by not less than
5 sixty-five percent of the employees in the school.
6 Additionally, a petition in support of the charter school
7 signed by a majority of the households whose children are
8 enrolled in a proposed conversion school must accompany the
9 application.

10 E. The local school board shall receive and
11 review all applications for charter schools. The local
12 school board shall not charge application fees. If the
13 local school board finds the charter school application is
14 incomplete, the local school board shall request the
15 necessary information from the charter applicant.

16 F. The local school board shall hold at least
17 one meeting to obtain information and community input to
18 assist the local school board in its decision whether to
19 grant a charter school application. The local school board
20 shall rule on the application for a charter school in a
21 public meeting within [~~sixty~~] forty-five days after
22 receiving the application. If not ruled upon within
23 [~~sixty~~] forty-five days, the charter application will be
24 automatically reviewed by the state board in accordance
25 with the provisions of Section [~~7 of the 1999 Charter~~
~~Schools Act~~] 22-8B-7 NMSA 1978. The charter applicant and
the local school board may, however, jointly waive the

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1 deadlines set forth in this section.

2 G. If the local school board denies a charter
3 school application or imposes conditions that are
4 unacceptable to the charter applicant, the charter
5 applicant may appeal the decision to the state board
6 pursuant to Section [~~7 of the 1999 Charter Schools Act~~] 22-
7 8B-7 NMSA 1978.

8 H. If a local school board denies a charter
9 school application, it shall state its reasons for the
10 denial. If a local school board grants a charter, it shall
11 send a copy of the approved charter to the department of
12 education within fifteen days after granting the charter."

13 Section 11. Section 22-8B-7 NMSA 1978 (being Laws
14 1999, Chapter 281, Section 7) is amended to read:

15 "22-8B-7. CHARTER SCHOOL APPLICATION APPEAL--
16 PROCEDURES.--

17 A. The state board, upon receipt of a notice of
18 appeal or upon its own motion, shall review decisions of
19 any local school board concerning charter schools in
20 accordance with the provisions of this section.

21 B. A charter applicant or governing body of a
22 charter school that wishes to appeal a decision of a local
23 school board concerning the denial, nonrenewal or
24 revocation of a charter school or the imposition of
25 conditions that are unacceptable to the charter school or
charter school applicant shall provide the state board with
a notice of appeal within thirty days after the local

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1 school board's decision. The charter school applicant or
2 governing body of the charter school bringing the appeal
3 shall limit the grounds of the appeal to the grounds for
4 denial, nonrenewal or revocation specified by the local
5 school board. The notice shall include a brief statement
6 of the reasons the charter school applicant contends the
7 local school board's decision was in error. The appeal and
8 review process shall be as follows:

9 (1) within [~~sixty~~] forty-five days after
10 receipt of the notice of appeal, the state board, at a
11 public hearing that may be held in the school district in
12 which the proposed charter school has applied for a
13 charter, shall review the decision of the local school
14 board and make its findings. If the state board finds that
15 the local school board's decision was contrary to the best
16 interests of the students, school district or community,
17 the state board shall remand the decision to the local
18 school board with written instructions for approval of the
19 charter. The instructions shall include specific
20 recommendations concerning approval of the charter. The
21 decision of the state board shall be final and not subject
22 to appeal; and

23 (2) within thirty days following the
24 remand of a decision by the state board, the local school
25 board, at a public hearing, shall approve the charter.

C. The state board, on its own motion, may
review a local school board's decision to grant or deny a

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1 charter. Within [~~sixty~~] thirty days after the [~~making of a~~
2 ~~motion~~] decision to review by the state board, the board,
3 at a public hearing that may be held in the district in
4 which the proposed charter school has applied for a
5 charter, shall review the decision of the local school
6 board and determine whether the decision was arbitrary and
7 capricious or whether the establishment or operation of the
8 proposed charter school would:

9 (1) violate any federal or state laws
10 concerning civil rights;

11 (2) violate any court order;

12 (3) threaten the health and safety of
13 students within the school district; or

14 (4) violate the provisions of Section [~~11~~
15 ~~of the 1999 Charter Schools Act~~] 22-8B-11 NMSA 1978,
16 prescribing the permissible number of charter schools.

17 D. If the state board determines that the
18 charter would violate the provisions set forth in
19 Subsection C of this section, the state board shall remand
20 the decision to the local school board with instructions to
21 deny the charter application. The state board may extend
22 the time lines established in this section for good cause.
23 The decision of the state board shall be final and not
24 subject to appeal."
25

Section 12. Section 22-8B-11 NMSA 1978 (being Laws
1999, Chapter 281, Section 11) is amended to read:

"22-8B-11. CHARTER SCHOOLS--MAXIMUM NUMBER

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ESTABLISHED.--

A. Local school boards shall authorize the approval of both conversion and start-up charter schools within their school districts.

B. No more than fifteen start-up schools and ~~[five]~~ twenty-five conversion schools may be established per year statewide. The number of charter school slots remaining in that year shall be transferred to succeeding years up to a maximum of seventy-five start-up schools and one hundred twenty-five conversion schools in any five-year period. The state board shall promptly notify the local school board of each school district when the limits set forth in this section have been reached."

Section 13. Section 22-8B-13 NMSA 1978 (being Laws 1999, Chapter 281, Section 13) is amended to read:

"22-8B-13. CHARTER SCHOOL FINANCING.--

A. ~~[The amount of funding allocated to the]~~ A charter school shall ~~[be]~~ not receive less than ninety-eight percent of ~~[the]~~ its school-generated program cost.

B. That portion of money from state or federal programs generated by students enrolled in a charter school shall be allocated to that charter ~~[schools serving]~~ school for the students eligible for that aid. ~~[Any other public school program not offered by the charter school shall not be entitled to the share of money generated by a charter school program]~~ A charter school that does not offer a school program shall not be entitled to a share of the

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1 money received by the school district for that program.

2 C. All services centrally or otherwise provided
3 by the local school district, including custodial,
4 maintenance and media services, libraries and warehousing,
5 shall be subject to negotiation between the charter school
6 and the local school district. Any services for which a
7 charter school contracts with a school district shall be
8 provided by the district at ~~[a reasonable]~~ the actual cost
9 incurred by the district."

10 Section 14. A new section of the 1999 Charter Schools
11 Act is enacted to read:

12 "[NEW MATERIAL] CHARTER SCHOOLS--VACANT BUILDING
13 LISTS.--The department of education, in conjunction with
14 the general services department, shall publish an annual
15 statewide list of unused buildings or portions of buildings
16 owned by the state and school districts that may be
17 suitable for the operation of charter schools. The
18 department of education shall make the list available to
19 applicants for charter school status and to existing
20 charter schools."

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

23 "[NEW MATERIAL] SHORT TITLE.--Sections 15 through 22
24 of this act may be cited as the "Elementary and Secondary
25 School Voucher Act".

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

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1 "[NEW MATERIAL] LEGISLATIVE FINDINGS AND PURPOSE.--

2 A. The legislature finds that:

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

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

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

13 (4) low-income families should not be
14 denied educational choices for their school-age children;
15 and

16 (5) a phased-in program for vouchers
17 should be established for students living in school
18 attendance zones and school districts with high percentages
19 of dropouts and low-income students, low test scores, a
20 high incidence of schools in need of improvement and
21 probationary schools. The program should include enough
22 public schools or private schools so that affected
23 students, through their parents or legal guardians, will
24 have the option of school choice.
25

 B. The purpose of the Elementary and Secondary
School Voucher Act is to phase in a voucher program that
begins with serving those students most in need of a choice

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1 of schools and that eventually provides all of New Mexico's
2 students the opportunity to attend their choice of public
3 or private schools in order to best suit their individual
4 needs and interests."

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

7 "[NEW MATERIAL] DEFINITIONS.--As used in the
8 Elementary and Secondary School Voucher Act:

9 A. "family income" means the income of the
10 student's parent or legal guardian who resides with the
11 student at the student's principal residence;

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

16 C. "resident school district" means the school
17 district in which a student resides;

18 D. "program" means the elementary and secondary
19 school voucher program; and

20 E. "voucher" means a note issued to a qualifying
21 parent or legal guardian through the department of
22 education that can be used to educate his child at a public
23 or eligible private school."

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

"[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM.--

A. The department of education shall administer

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1 the program pursuant to rules adopted by the state board.

2 B. The state board shall, by rule, establish
3 criteria and guidelines for the implementation and
4 operation of the program.

5 C. A private school is not required to
6 participate in the program.

7 D. The department of education, in cooperation
8 with the school districts, shall embark on a public
9 awareness campaign to inform the public about the program
10 using the schools, other government agencies and the
11 media."

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

14 "[NEW MATERIAL] ELIGIBLE STUDENTS.--

15 A. A student who is a resident of New Mexico and
16 is at least five years of age prior to 12:01 a.m. on
17 September 1 of the school year or is a developmentally
18 disabled three- or four-year-old child is eligible to
19 participate in the program if the student meets the
20 following criteria:

21 (1) for the 2002-2003 school year:

22 (a) the student's family income in
23 2001 does not exceed one hundred percent of the 2001
24 federal poverty guidelines;

25 (b) the student will be enrolled in
grades one through ten;

(c) the student resides in the

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1 Albuquerque public school district; and

2 (d) the student resides in the school
3 attendance zone of one of four high schools identified by
4 the department of education. Prior to May 30, 2002, the
5 department shall select four high schools in the
6 Albuquerque public school district with a high percentage
7 of dropouts and low test scores and a high incidence of
8 violence and school vandalism;

9 (2) for the 2003-2004 school year:

10 (a) the student's family income in
11 2002 does not exceed one hundred percent of the 2002
12 federal poverty guidelines;

13 (b) the student will be enrolled in
14 grades one through eleven; and

15 (c) the student resides in the
16 Albuquerque public school district, the Las Cruces public
17 school district, the Gadsden independent school district,
18 the Santa Fe public school district, the Pojoaque Valley
19 public school district, the Espanola public school
20 district, the Gallup-McKinley county public school
21 district, the Zuni public school district, the Grants-
22 Cibola county school district, the central consolidated
23 school district, the Farmington municipal school district
24 or the Aztec municipal school district;

25 (3) for the 2004-2005 school year, the
student's family income in 2003 does not exceed one hundred
percent of the 2003 federal poverty guidelines; and

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1 (4) for the 2005-2006 school year, the
2 student's family income in 2004 does not exceed two hundred
3 thirty-five percent of the 2004 federal poverty guidelines.

4 B. For the 2006-2007 school year and subsequent
5 years, all students shall be eligible to participate in the
6 program.

7 C. A student who receives a voucher pursuant to
8 the Elementary and Secondary School Voucher Act shall
9 participate in the testing required by Section 22-1-6 NMSA
10 1978. The testing shall be administered by the student's
11 resident school district."

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

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

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

17 (1) register with the department of
18 education as an eligible private school;

19 (2) maintain or develop antidiscrimination
20 policies to prevent discrimination on the basis of race,
21 color, national origin or ancestry; and

22 (3) develop policies that do not
23 discriminate against students who are recipients of
24 vouchers.

25 B. A private school that accepts students who
are participants in the program is not required to comply
with rules that apply to public schools promulgated by

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1 either the state board or a local school board."

2 Section 21. A new section of the Public School Code
3 is enacted to read:

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

5 A. A parent may use a voucher to enroll his
6 child in a public school outside of the child's resident
7 school district.

8 B. A school district shall adopt specific,
9 written standards for acceptance and rejection of vouchers
10 based on the capacity of a program, class size, grade level
11 or school buildings.

12 C. For the 2003-2004 school year and each
13 subsequent school year, not earlier than March 1 and not
14 later than July 1 prior to the beginning of a school year,
15 a student's parent or legal guardian may apply to the
16 resident school district superintendent to participate in
17 the program. The resident school district superintendent
18 may waive the application deadline. The application shall
19 contain the following information:

- 20 (1) the student's name and address;
- 21 (2) the student's date of birth;
- 22 (3) the student's social security number;
- 23 (4) the student's school attendance zone;
- 24 (5) the student's grade level;
- 25 (6) the name and address of the student's
parent or legal guardian who is residing with the child;
- (7) if necessary to determine eligibility,

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1 proof of family income through copies of:

2 (a) the parent's or legal guardian's
3 three most recent paycheck receipts for all employment;

4 (b) a signed statement by the
5 parent's or legal guardian's employer indicating the
6 weekly, biweekly or annual net earnings; or

7 (c) a signed statement by the parent
8 or legal guardian that he is self-employed and that
9 indicates his annual net earnings accompanied by a copy of
10 his most recent income tax return;

11 (8) whether the student was enrolled in a
12 class A, B, C or D special education program in the prior
13 school year or, for a child entering school for the first
14 time, whether the child has a diagnosed developmental
15 disability or learning disorder;

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

18 (10) the name, tuition, fees and address
19 of the public or private school to which the student
20 intends to apply.

21 D. No later than forty-five days after the
22 application is received, the resident school district
23 superintendent shall act on the application, notify the
24 parent or legal guardian of the value of the voucher and
25 issue the voucher if the application is approved.

E. Not earlier than May 30, 2002 and not later
than June 30, 2002, applications for the 2002-2003 school

1 year containing the information required by Subsection C of
2 this section shall be submitted to the department of
3 education. Not later than August 1, 2002, the department
4 shall:

5 (1) determine the total amount available
6 for the program;

7 (2) determine the number of available
8 vouchers;

9 (3) determine the eligibility and
10 completeness of each application; and

11 (4) if the number of eligible and complete
12 applications exceeds the number of available vouchers, hold
13 a random lottery to select the students who will be issued
14 vouchers.

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

20 G. The student and his parent or legal guardian
21 shall solely select the public or private school the
22 student chooses to attend. Neither the state nor a school
23 district shall decide which school a student may attend or
24 advise or influence the student's selection of a school.

25 H. Not later than August 15 of each year, the
resident school district superintendent shall report to the
department of education the ages, school attendance zones

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1 and estimated voucher values of students participating in
2 the program."

3 Section 22. A new section of the Public School Code
4 is enacted to read:

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

6 A. Except as limited by Subsection C of this
7 section, for the 2003-2004 school year and each subsequent
8 school year, the value of the voucher shall be equal to the
9 amount of money generated by the student through the state
10 equalization guarantee distribution provided in the Public
11 School Finance Act and a proportionate per student amount
12 for transportation expenses if the student had attended a
13 public school in the student's school attendance zone. The
14 value of the voucher shall also include a proportionate
15 allocation for the resident school district's at-risk
16 funding. The department of education shall calculate the
17 value of a student's voucher using the state equalization
18 guarantee distribution formula.

19 B. Except as limited by Subsection C of this
20 section, for the 2002-2003 school year, the value of the
21 voucher shall equal three thousand dollars (\$3,000).

22 C. Notwithstanding the value of a voucher
23 determined pursuant to Subsection A or B of this section,
24 the voucher redemption value shall not exceed the tuition
25 and fees charged by a private school for students not
participating in the program unless the cost of educating
the student presenting the voucher is greater than the

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1 tuition and fees charged, in which case the voucher
2 redemption value shall not exceed those costs.

3 D. Within fifteen days after receiving a
4 voucher, a private school shall, in writing, certify the
5 enrollment of the student named on the voucher and shall,
6 in writing, certify the amount of tuition and fees charged
7 by the private school to the department of education.

8 E. A private school or a school district located
9 outside of the student's attendance zone shall redeem the
10 value of the voucher from the resident school district; or,
11 for the 2002-2003 school year, from the department of
12 education. The value of the voucher shall be paid in the
13 following installments: twenty-five percent of the value
14 in September, twenty-five percent of the value in November,
15 twenty-five percent of the value in February and twenty-
16 five percent of the value in May. The installments shall
17 be paid on the first day of the applicable month.

18 F. If a private school disenrolls a student
19 during the school year or if the student is absent for ten
20 consecutive days without explanation from the student's
21 parent or legal guardian, the private school shall, in
22 writing, notify the resident school district or, for the
23 2002-2003 school year, the department of education, and the
24 voucher redemption shall cease.

25 G. If a parent or legal guardian disenrolls a
student from a private school and enrolls the student in
another private school or in a public school during the

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1 school year, the parent or legal guardian shall, in
2 writing, notify the resident school district or, for the
3 2002-2003 school year, the department of education. Upon
4 receipt of proof of enrollment in another private school
5 and certification of tuition and fees charged by the new
6 private school, the remaining voucher payment installments
7 shall be made to the new private school. Upon proof of
8 enrollment in a public school, the remaining installments
9 shall be made to the school district in which the public
10 school is located."

11 Section 23. A new section of the School Personnel Act
12 is enacted to read:

13 "[NEW MATERIAL] LIMITED RECIPROCITY.--A teacher or
14 school administrator who holds a valid license or
15 certificate in another state shall be granted a similar New
16 Mexico certificate if the other state's licensure or
17 certification requirements meet or exceed New Mexico
18 certificate requirements."

19 Section 24. A new section of the School Personnel Act
20 is enacted to read:

21 "[NEW MATERIAL] SCHOOL DISTRICTS REQUIRED TO NOTIFY
22 EMPLOYEES OF CERTAIN RIGHTS REGARDING USE OF COLLECTED
23 UNION DUES.--

24 A. A school district that collects union dues
25 from its employees shall post a notice in one or more
conspicuous locations in the workplace disclosing the
employees' rights regarding the use of collected union

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1 dues. The notice shall be in substantially the following
2 form and substance:

3 "NOTICE TO EMPLOYEES
4 IN ACCORDANCE WITH THE UNITED STATES SUPREME COURT DECISION
5 IN *COMMUNICATIONS WORKERS OF AMERICA v. BECK* (1988)
6 YOU HAVE THE FOLLOWING RIGHTS REGARDING THE USE OF UNION
7 DUES COLLECTED FROM YOU:

8 1. A union is not permitted to expend dues or fees
9 collected from dues-paying nonmember employees, often
10 referred to as "agency fees", on activities unrelated to
11 collective bargaining activities and may collect from those
12 employees only those dues and fees necessary to finance
13 collective bargaining activities.

14 2. Political causes and community outreach programs
15 are activities unrelated to collective bargaining and
16 agency fees shall not be used for financing political
17 causes or community outreach programs."

18 B. The director of the labor and industrial
19 division of the labor department shall prepare and furnish
20 posters containing the notice in Subsection A of this
21 section to school districts. Posting of that notice in one
22 or more conspicuous locations in each school and other
23 school district workplaces is compliance with the
24 requirement of Subsection A of this section.

25 C. If withheld union dues or fees are to be used
for political purposes, before withholding from an
employee, the school district shall obtain written

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1 permission from the employee. After once obtaining that
2 permission, the school district shall obtain it annually
3 thereafter for each employee that remains employed and who
4 remains subject to withholding.

5 D. A union that engages in mandatory withholding
6 of dues or fees from nonmember employees shall report
7 annually to the secretary of state the fact of the
8 withholding and the amounts withheld together with
9 expenditures from amounts withheld in at least the
10 following categories:

- 11 (1) collective bargaining;
- 12 (2) organizing;
- 13 (3) developing safety programs in the
14 workplace;
- 15 (4) partisan political campaigns and
16 contributions;
- 17 (5) political issue education; and
- 18 (6) voter registration."

19 Section 25. A new section of the Public School Code
20 is enacted to read:

21 "[NEW MATERIAL] SHORT TITLE.--Sections 25 through 30
22 of this act may be cited as the "Teacher Merit Pay Act"."

23 Section 26. A new section of the Public School Code
24 is enacted to read:

25 "[NEW MATERIAL] PURPOSE OF ACT.--The purpose of the
Teacher Merit Pay Act is to reward teachers who demonstrate
outstanding teacher practices, resulting in outstanding

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1 student academic performances and student improvement, and
2 to encourage all teachers to excel in their teaching beyond
3 state standards and benchmarks in order to optimally impact
4 students."

5 Section 27. A new section of the Public School Code
6 is enacted to read:

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

9 A. The state board shall establish a teacher
10 merit pay program.

11 B. The state board shall establish guidelines
12 for the implementation and operation of a teacher merit pay
13 program to provide to teachers merit awards that shall be
14 incorporated into the teacher's base salary in accordance
15 with the provisions of the Teacher Merit Pay Act.

16 C. The department of education shall provide
17 administrative assistance, meeting space and other
18 necessary facilities and support services as the teacher
19 merit pay committee may request.

20 D. The state superintendent shall report
21 annually to the legislature and the governor on the
22 effectiveness of the teacher merit pay program. The report
23 shall include evaluations, surveys and the recommendations
24 of parents and teachers involved in the program and an
25 analysis of the extent to which the program encourages
teacher excellence and increases student achievement."

Section 28. A new section of the Public School Code

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1 is enacted to read:

2 "[NEW MATERIAL] TEACHER MERIT PAY COMMITTEE--DUTIES--
3 MEMBERSHIP.--

4 A. The "teacher merit pay committee" is created
5 as an advisory committee to advise the state board and the
6 department of education on all policies, strategies,
7 organizational structures and other matters necessary to
8 establish and implement a teacher merit pay program.

9 B. The teacher merit pay committee shall consist
10 of ten members appointed as follows:

11 (1) two members of the state board's
12 standing committee on accountability, appointed by the
13 president of the state board;

14 (2) one member who represents the business
15 community and who is not employed in education, appointed
16 by the governor;

17 (3) one member who represents the business
18 community and who is not employed in education, appointed
19 jointly by the president pro tempore of the senate and the
20 speaker of the house of representatives;

21 (4) one member who is a parent of a
22 school-age child and who is not employed in education,
23 appointed by the governor;

24 (5) one member who is a parent of a
25 school-age child and who is not employed in education,
appointed jointly by the president pro tempore of the
senate and the speaker of the house of representatives;

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1 (6) two members who are certified school
2 instructors, one of whom shall be a member of either the
3 New Mexico national education association or the federation
4 of education employees, appointed by the governor; and

5 (7) two members who are certified school
6 instructors, one of whom shall be a member of either the
7 New Mexico national education association or the federation
8 of education employees, appointed jointly by the president
9 pro tempore of the senate and the speaker of the house of
10 representatives.

11 C. The remaining members of the state board's
12 standing committee on accountability who are not already
13 appointed may serve as advisory members to the teacher
14 merit pay committee.

15 D. The teacher merit pay committee shall meet at
16 the call of the chairman and shall meet not less than
17 monthly. The chairman shall be elected from among the
18 members of the committee.

19 E. Members of the teacher merit pay committee
20 shall receive per diem and mileage as provided in the Per
21 Diem and Mileage Act."

22 Section 29. A new section of the Public School Code
23 is enacted to read:

24 "[NEW MATERIAL] TEACHER EVALUATION REPORT--STUDENT
25 ACHIEVEMENT REPORT.--

A. The teacher merit pay committee shall advise
the state board on the design of the teacher evaluation and

1 student achievement reports used to determine the basis of
2 merit awards in accordance with the provisions of the
3 Teacher Merit Pay Act.

4 B. The teacher evaluation report shall include
5 self-, peer- and supervisor-evaluation components. The
6 self evaluation shall be provided by the teacher who is
7 eligible for a merit award. The peer evaluation shall be
8 provided by an associate of the teacher who is eligible for
9 the merit award and who instructs at the same grade level
10 for elementary schools or in the same subject area for
11 middle and secondary schools. The supervisor evaluation
12 shall be completed by a supervisor of the teacher who is
13 eligible for the merit award. The state board may
14 determine specific evaluation standards for measurement in
15 the teacher evaluation report, including whether the
16 teacher:

- 17 (1) demonstrates substantial content
18 knowledge of his instructional subject matter;
19 (2) demonstrates a professional practice
20 of teaching;
21 (3) understands student cognitive learning
22 processes;
23 (4) uses effective curriculum and
24 instructional strategies; and
25 (5) uses successful classroom strategies.

C. The student achievement report shall measure
student achievement through various student academic

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1 performance measures, including:

- 2 (1) standardized norm-referenced
- 3 assessments;
- 4 (2) criterion-referenced assessments; and
- 5 (3) other standards determined by the
- 6 state board."

7 Section 30. A new section of the Public School Code
8 is enacted to read:

9 "[NEW MATERIAL] SALARY INCREASES.--The state board,
10 with the advice of the teacher merit pay committee, shall
11 determine base salary merit pay increases for teachers
12 pursuant to the Teacher Merit Pay Act. In determining
13 merit pay, the state board shall use the teacher evaluation
14 report and the student achievement report to determine
15 whether a teacher is "superior", "outstanding" or "exceeds
16 proficient". A teacher who is:

- 17 A. "superior" shall receive up to a three
- 18 percent base salary increase;
- 19 B. "outstanding" shall receive up to a two
- 20 percent base salary increase; and
- 21 C. "exceeds proficient" shall receive up to a
- 22 one percent base salary increase."

23 Section 31. Section 22-12-2 NMSA 1978 (being Laws
24 1967, Chapter 16, Section 170, as amended) is amended to
25 read:

"22-12-2. COMPULSORY SCHOOL ATTENDANCE--
RESPONSIBILITY.--

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1 A. Any qualified student and any person who
2 because of his age is eligible to become a qualified
3 student as defined by the Public School Finance Act [~~until~~
4 ~~attaining the age of majority~~] shall attend a public
5 school, a private school, a home school or a state
6 institution until attaining the age of majority. A person
7 shall be excused from this requirement if:

8 (1) the person is specifically exempted by
9 law from the provisions of this section;

10 (2) the person has graduated from a high
11 school;

12 (3) the person is at least seventeen years
13 of age and has been excused by the local school board or
14 its authorized representative upon a finding that the
15 person will be employed in a gainful trade or occupation or
16 engaged in an alternative form of education sufficient for
17 the person's educational needs and the parent, guardian or
18 other person having custody and control consents; [~~or~~]

19 (4) with the consent of the parent,
20 guardian or person having custody and control of the person
21 to be excused, the person is excused from the provisions of
22 this section by the superintendent of schools of the school
23 district in which the person is a resident and the person
24 is under eight years of age; or

25 (5) with the consent of the parent,
guardian or person having custody and control of the person
to be excused, the person is excused from the provisions of

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1 this section by the superintendent of schools of the school
2 district in which the person is a resident because the
3 person has completed the tenth grade and has received a
4 graduate equivalent diploma.

5 B. A person subject to the provisions of the
6 Compulsory School Attendance Law shall attend school for at
7 least the length of time of the school year that is
8 established in the school district in which the person is a
9 resident.

10 C. Any parent, guardian or person having custody
11 and control of a person subject to the provisions of the
12 Compulsory School Attendance Law is responsible for the
13 school attendance of that person."

14 Section 32. Section 22-15-2 NMSA 1978 (being Laws
15 1967, Chapter 16, Section 206, as amended) is amended to
16 read:

17 "22-15-2. DEFINITIONS.--As used in the Instructional
18 Material Law:

19 A. "division" or "bureau" means the
20 instructional material bureau in the department of
21 education;

22 B. "director" or "chief" means the chief of the
23 bureau;

24 C. "instructional material" means school
25 textbooks and other educational media that are used as the
basis for instruction, including combinations of textbooks,
learning kits, supplementary materials and electronic

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media;

~~[D. "multiple list" means a written list of those instructional materials approved by the state board;~~

~~E.]~~ D. "membership" means the ~~[total]~~ average enrollment of qualified students on the fortieth, ~~[day]~~ eightieth and one hundred twentieth days of the prior school year entitled to the free use of instructional material pursuant to the Instructional Material Law; and

~~[F.]~~ E. "additional pupil" means a pupil in a school district's, state institution's ~~[or]~~, private school's or adult basic education center's current year's certified ~~[forty-day]~~ membership above the number certified in the school district's, state institution's ~~[or]~~, private school's or adult basic education center's prior year's ~~[forty-day]~~ membership."

Section 33. Section 22-15-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 208, as amended) is amended to read:

"22-15-4. BUREAU--DUTIES.--Subject to the policies and ~~[regulations]~~ rules of the state board, the bureau shall:

A. administer the provisions of the Instructional Material Law;

B. enforce ~~[regulations]~~ rules for the handling, safekeeping and distribution of instructional material and instructional material funds and for inventory and accounting procedures to be followed by school districts,

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1 state institutions, private schools and adult basic
2 education centers pursuant to the Instructional Material
3 Law;

4 C. withdraw or withhold the privilege of
5 participating in the free use of instructional material in
6 case of any violation of or noncompliance with the
7 provisions of the Instructional Material Law or any
8 ~~[regulations]~~ rules adopted pursuant thereto; ~~[and~~

9 ~~D. enforce regulations relating to the use and~~
10 ~~operation of instructional material depositories in the~~
11 ~~instructional material distribution process]~~

12 D. enforce rules that require local school
13 boards to implement a process that ensures that parents and
14 other community members are involved in the instructional
15 material review process;

16 E. ensure that instructional material purchased
17 by private schools is not of a sectarian, partisan or
18 denominational character or a religious nature by requiring
19 private schools to submit a list with titles and a brief
20 summary of content of all instructional material purchased
21 with state instructional material funds; and

22 F. require an annual report from each local
23 school board, state institution, private school or adult
24 basic education center that acquires instructional material
25 pursuant to the Instructional Material Law."

Section 34. Section 22-15-5 NMSA 1978 (being Laws
1967, Chapter 16, Section 209, as amended) is amended to

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1 read:

2 "22-15-5. INSTRUCTIONAL MATERIAL FUND.--

3 A. The state treasurer shall establish a fund to
4 be known as the "instructional material fund".

5 B. The instructional material fund shall be used
6 for the purpose of paying for the cost of purchasing
7 instructional material pursuant to the Instructional
8 Material Law. Transportation charges for the delivery of
9 instructional material to a school district, a state
10 institution, a private school as agent or an adult basic
11 education center and emergency expenses incurred in
12 providing instructional material to students may be
13 included as a cost of purchasing instructional material.
14 Charges for rebinding of used instructional ~~[materials that~~
15 ~~appear on the multiple list pursuant to Section 22-15-8~~
16 ~~NMSA 1978]~~ material may also be included as a cost of
17 purchasing instructional material."

18 Section 35. Section 22-15-8 NMSA 1978 (being Laws
19 1967, Chapter 16, Section 212, as amended) is amended to
20 read:

21 "22-15-8. [~~MULTIPLE LIST~~] SELECTION OF INSTRUCTIONAL
22 MATERIAL.--~~[A. The state board shall adopt a multiple list~~
23 ~~to be made available to students pursuant to the~~
24 ~~Instructional Material Law. The state board shall ensure~~
25 ~~that parents and other community members are involved in~~
~~the adoption process at the state level.~~

B.] Pursuant to the provisions of the

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1 Instructional Material Law, each local school [~~district~~
2 board, state institution, private school as agent or adult
3 basic education center may select instructional material
4 for the use of its students [~~from the multiple list adopted~~
5 ~~by the state board~~]; provided that none of the
6 instructional material purchased is of a sectarian,
7 partisan or denominational character or a religious nature.

8 Local school boards shall give written notice to parents
9 and other community members and shall invite parental
10 involvement in the [~~adoption~~] selection process at the
11 school district level. Local school boards shall also give
12 public notice, which notice may include publication in a
13 newspaper of general circulation in the school district."

14 Section 36. Section 22-15-9 NMSA 1978 (being Laws
15 1967, Chapter 16, Section 213, as amended) is amended to
16 read:

17 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
18 MATERIAL.--

19 A. On or before July 1 of each year, the
20 department of education shall allocate to each school
21 district, state institution or private school not less than
22 [~~ninety~~] seventy-five percent of its estimated entitlement
23 as determined from the estimated [~~forty-day~~] membership for
24 the next school year. A school district's, state
25 institution's or private school's entitlement is that
 portion of the total amount of the annual appropriation
 less a deduction for a reasonable reserve for emergency

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1 expenses that its [~~forty-day~~] membership bears to the
2 [~~forty-day~~] membership of the entire state. For the
3 purpose of this allocation, additional pupils shall be
4 counted as six pupils. The allocation for adult basic
5 education shall be based on a full-time equivalency
6 obtained by multiplying the total previous year's
7 enrollment by .25.

8 B. On or before January 15 of each year, the
9 department of education shall recompute each entitlement
10 [~~using the forty-day membership for that year, except for~~
11 ~~adult basic education~~] and shall allocate the balance of
12 the annual appropriation adjusting for any over- or under-
13 estimation made in the first allocation.

14 [~~C. An amount not to exceed thirty percent of~~
15 ~~the allocations attributed to each local school district,~~
16 ~~state institution or adult basic education center may be~~
17 ~~used for instructional material not included on the~~
18 ~~multiple list provided for in Section 22-15-8 NMSA 1978.~~
19 ~~Adult basic education centers may expend up to one hundred~~
20 ~~percent of their instructional material funds for items~~
21 ~~that are not on the multiple list.~~

22 ~~D.]~~ C. The department of education shall
23 establish procedures for the distribution of funds directly
24 to [~~local~~] school districts, state institutions and adult
25 basic education centers. The department of education shall
distribute funds to private schools on a reimbursement
basis for instructional material [~~included on the multiple~~

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1 ~~list provided for in Section 22-15-8 NMSA 1978~~]; provided
2 that none of the instructional material purchased is of a
3 sectarian, partisan or denominational character or a
4 religious nature.

5 ~~[E.]~~ D. A school district, state institution or
6 adult basic education center that has funds remaining for
7 the purchase of instructional material at the end of the
8 fiscal year shall retain those funds for expenditure in
9 subsequent years. Any balance remaining in an
10 instructional material account of a private school at the
11 end of the fiscal year shall remain available for
12 reimbursement by the department of education for
13 instructional material purchases in subsequent years."

14 Section 37. Section 22-15-12 NMSA 1978 (being Laws
15 1967, Chapter 16, Section 216, as amended) is amended to
16 read:

17 "22-15-12. ANNUAL REPORT.--Annually, at a time
18 specified by the department of education, each local school
19 board [~~of a school district~~] and each governing authority
20 of a state institution, private school or adult basic
21 education center acquiring instructional material pursuant
22 to the Instructional Material Law shall file a report with
23 the department of education that includes an accurate
24 record of all instructional material purchased, including
25 cost records, on forms and by procedures prescribed by the
department."

 Section 38. Section 22-15-13 NMSA 1978 (being Laws

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1 1967, Chapter 16, Section 217, as amended by Laws 1993,
2 Chapter 156, Section 6 and also by Laws 1993, Chapter 226,
3 Section 44) is amended to read:

4 "22-15-13. CONTRACTS WITH PUBLISHERS.--

5 A. ~~[The state]~~ A local school board, state
6 institution, private school as agent or adult basic
7 education center may enter into a contract with a publisher
8 or a publisher's authorized agent for the purchase and
9 delivery of instructional material ~~[selected from the~~
10 ~~multiple list adopted by the state board]~~.

11 B. Payment for instructional material purchased
12 by ~~[the state]~~ a local school board, state institution,
13 private school as agent or adult basic education center
14 shall be made only upon performance of the contract and the
15 delivery and receipt of the instructional material.

16 C. Each publisher or publisher's authorized
17 agent contracting with ~~[the state]~~ a local school board,
18 state institution, private school as agent or adult basic
19 education center for the sale of instructional material
20 shall agree:

21 ~~[(1) to file a copy of each item of~~
22 ~~instructional material to be furnished under the contract~~
23 ~~with the state board with a certificate attached~~
24 ~~identifying it as an exact copy of the item of~~
25 ~~instructional material to be furnished under the contract;~~

~~(2)]~~ (1) that the instructional material
furnished pursuant to the contract shall be of the same

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1 quality in regard to paper, binding, printing,
2 illustrations, subject matter and authorship as the ~~[copy~~
3 ~~filed with the state board]~~ copies sold to other states;
4 and

5 [~~3~~] (2) that if the instructional
6 material under the contract is sold elsewhere in the United
7 States for a price less than that agreed upon in the
8 contract with the ~~[state]~~ local school board, state
9 institution, private school as agent or adult basic
10 education center, the price to the state shall be reduced
11 to the same amount.

12 D. Each contract executed for the acquisition of
13 instructional material shall include the right of the local
14 school board, state institution, private school as agent or
15 adult basic education center to transcribe and reproduce
16 instructional material in media appropriate for the use of
17 students with visual impairment who are unable to use
18 instructional material in conventional print and form.
19 Publishers of adopted textbooks shall be required to
20 provide those materials to the local school board, state
21 institution, private school as agent or adult basic
22 education center in an electronic format specified by the
23 educational entity that is readily translatable into
24 braille and can be used for large print or speech access
25 within a time period specified by the educational entity."

Section 39. Section 22-23-1 NMSA 1978 (being Laws
1973, Chapter 285, Section 1) is amended to read:

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1 "22-23-1. SHORT TITLE.--~~[This act]~~ Chapter 22,
2 Article 23 NMSA 1978 may be cited as the "Bilingual
3 Multicultural Education Act"."

4 Section 40. A new section of the Bilingual
5 Multicultural Education Act is enacted to read:

6 "[NEW MATERIAL] LIMITED-ENGLISH-PROFICIENT STUDENTS--
7 ENGLISH IMMERSION OPTION.--A non-English-speaking or
8 limited-English-proficient student shall be placed in an
9 English immersion program if the parent of the student
10 requests the placement. The placement shall not decrease
11 the school district's calculation for at-risk program units
12 and bilingual multicultural education units."

13 Section 41. APPROPRIATION.--Eight million seven
14 hundred thousand dollars (\$8,700,000) is appropriated from
15 the general fund to the state department of public
16 education for expenditure in fiscal year 2003 for the
17 purpose of paying vouchers in the 2002-2003 school year
18 pursuant to the Elementary and Secondary School Voucher
19 Act. Any unexpended or unencumbered balance remaining at
20 the end of fiscal year 2003 shall revert to the general
21 fund.

22 Section 42. REPEAL.--Section 22-15-11 NMSA 1978
23 (being Laws 1967, Chapter 16, Section 215, as amended) is
24 repealed.