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SENATE BILL 173

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

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO EDUCATION; ENACTING THE STUDENT ALTERNATIVES ACT;  
PROVIDING ALTERNATIVE EDUCATIONAL OPPORTUNITIES FOR HIGH  
SCHOOL DROPOUTS; MAKING AN APPROPRIATION; DECLARING AN  
EMERGENCY.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"Student Alternatives Act".

Section 2. DEFINITIONS.--As used in the Student  
Alternatives Act:

- A. "board" means the student alternatives board;
- B. "department" means the department of finance  
and administration;
- C. "school alternative" means a:
  - (1) governmental entity, including the New

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1 Mexico youth conservation corps or a charter school, that  
2 enters into a joint powers agreement with the department to  
3 provide alternative educational opportunities for students; or

4 (2) nonprofit corporation or for-profit  
5 corporation that contracts with the department to provide  
6 alternative educational opportunities for students; and

7 D. "student" means a person between the ages of  
8 fourteen and eighteen who has been disenrolled from a public  
9 school for any reason in the prior school year or whose  
10 attendance or conduct indicate that he may not meet graduation  
11 requirements provided in Section 22-2-8.4 NMSA 1978.

12 Section 3. PILOT PROJECT--ALTERNATIVE EDUCATION. --

13 A. The department shall develop a pilot program to  
14 provide alternative educational opportunities for students.

15 B. The pilot program shall run until June 1, 2004.

16 Section 4. ALTERNATIVE EDUCATION--STUDENTS. --

17 A. The department shall enter into either a joint  
18 powers agreement or contract with each school alternative to  
19 provide educational services for students. The joint powers  
20 agreement or contract shall contain a provision that provides  
21 for a salary increase for any teacher employed at a school  
22 alternative whose students show exemplary improvement in  
23 academic achievement or attendance. The joint powers  
24 agreement or contract shall also contain a provision that  
25 provides more funding to any student alternative whose

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1 students, based on an independent analysis, demonstrate  
2 exemplary academic achievement and attendance.

3 B. A school alternative shall actively recruit  
4 students to provide them with alternatives to the curricula  
5 and environment offered in the public schools.

6 C. Students enrolled in a school alternative shall  
7 be held to the graduation requirements provided in Section  
8 22-2-8.4 NMSA 1978.

9 D. School alternatives may contract for services,  
10 including transportation, emergency medical services, food  
11 services and security, necessary to provide educational  
12 services to students.

13 E. School alternatives shall not operate on the  
14 same site with another public school.

15 F. School alternatives shall be exempt from the  
16 requirements of the School Personnel Act.

17 G. School alternatives shall be evaluated by the  
18 board on the bases of student attendance, retention, academic  
19 achievement and the number of students who pass the New Mexico  
20 high school competency examination.

21 H. School alternatives shall enroll no less than  
22 one hundred students and no more than two hundred students.

23 Section 5. BOARD--FUNDING.--

24 A. The "student alternatives board" is created.

25 B. The board shall be comprised of:

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1 (1) two members of the house of  
2 representatives to be appointed by the speaker of the house of  
3 representatives;

4 (2) two members of the senate to be appointed  
5 by the president pro tempore of the senate;

6 (3) two representatives of the business  
7 community to be appointed by the governor;

8 (4) two members of the state board of  
9 education to be appointed by the president of the state board  
10 of education; and

11 (5) three members of the education community  
12 to be appointed by the governor.

13 C. The members of the board shall elect a  
14 president, a secretary and a treasurer.

15 D. The department shall staff the board.

16 E. The board shall:

17 (1) review proposals submitted by applicants  
18 to become student alternatives;

19 (2) allocate funding to the student  
20 alternatives selected;

21 (3) ensure that no more than twenty-five  
22 percent of available funding is allocated to any one student  
23 alternative; and

24 (4) evaluate the performance of student  
25 alternatives.

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F. The board shall report annually to the legislative finance committee, the legislative education study committee and the governor prior to October 15. The report shall include the amount of funding that students enrolled in school alternatives would have generated if they were enrolled in a public school.

Section 6. APPROPRIATION. -- Three million dollars (\$3,000,000) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2000 through 2005 for the purpose carrying out the provisions of the Student Alternatives Act. No more than twenty-five percent of the appropriation may be used to contract with any one school alternative. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the general fund.

Section 7. EMERGENCY. -- It is necessary for the public peace, health and safety that this act take effect immediately.

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3  
4  
5 February 18, 1999

6  
7 Mr. President:

8  
9 Your EDUCATION COMMITTEE, to whom has been referred

10  
11 SENATE BILL 173

12  
13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, and thence referred to the  
15 FINANCE COMMITTEE.

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18 Respectfully submitted,

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25 Cynthia Nava, Chairman

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1 Adopted \_\_\_\_\_ Not

2 Adopted \_\_\_\_\_

3 (Chief Clerk)

(Chief Clerk)

4

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6 Date \_\_\_\_\_

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9 The roll call vote was 6 For 0 Against

10 Yes: 6

11 No: 0

12 Excused: Adair, Duran, Pinto, Rodriguez

13 Absent: None

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16 S0173ED1

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SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 173

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

AN ACT

RELATING TO EDUCATION; ENACTING THE STUDENT ALTERNATIVES ACT;  
PROVIDING ALTERNATIVE EDUCATIONAL OPPORTUNITIES FOR HIGH  
SCHOOL DROPOUTS; MAKING AN APPROPRIATION; DECLARING AN  
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- A. "board" means the student alternatives board;
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administration;
- C. "school alternative" means a:
  - (1) governmental entity, including the New



Mexico youth conservation corps or a charter school, that enters into a contract with the department to provide alternative educational opportunities for students; or

1                   (2) nonprofit corporation or for-profit  
2 corporation that contracts with the department to provide  
3 alternative educational opportunities for students; and

4                   D. "student" means a person between the ages of  
5 fourteen and eighteen who has been disenrolled from a public  
6 school for any reason or whose attendance or conduct indicate  
7 that he may not meet graduation requirements provided in  
8 Section 22-2-8.4 NMSA 1978.

9                   Section 3. PILOT PROJECT--ALTERNATIVE EDUCATION. --

10                  A. The department shall solicit proposals for a  
11 pilot program to provide alternative educational opportunities  
12 for students. The department shall evaluate responses to its  
13 solicitation for proposals and provide recommendations to the  
14 board. In addition, the department shall monitor the  
15 performance of school alternatives.

16                  B. The pilot program shall run until June 1, 2004.

17                   Section 4. ALTERNATIVE EDUCATION--STUDENTS. --

18                  A. The department shall enter into a contract with  
19 each school alternative to provide educational services for  
20 students. The contract shall contain a provision that  
21 provides for a salary increase for any teacher employed at a  
22 school alternative whose students show exemplary improvement  
23 in academic achievement or attendance. The contract shall  
24 also contain a provision that provides more funding to any  
25 school alternative whose students, based on an independent

. 127913. 2

1 analysis, demonstrate exemplary academic achievement and  
2 attendance.

3 B. Students enrolled in a school alternative may be  
4 held to the graduation requirements provided in Section 22-2-  
5 8.4 NMSA 1978. School alternatives shall provide students  
6 with transcripts.

7 C. School alternatives may contract for services,  
8 including transportation, emergency medical services, food  
9 services and security, necessary to provide educational  
10 services to students.

11 D. School alternatives shall not operate on the same  
12 site with another public school.

13 E. School alternatives shall be exempt from the  
14 requirements of the School Personnel Act.

15  
16 F. School alternatives shall be evaluated by the  
17 board on the basis of student attendance, retention, academic  
18 achievement and the number of students who pass the New Mexico  
19 high school competency examination.

20 G. School alternatives shall enroll no less than one  
21 hundred students and no more than two hundred students.

22 Section 5. BOARD-- FUNDING. --

23 A. The "student alternatives board" is created.

24 B. The board shall be comprised of:

25 (1) two public members to be appointed by the

1 speaker of the house of representatives;

2 (2) two public members to be appointed by the  
3 president pro tempore of the senate;

4 (3) two representatives of the business  
5 community to be appointed by the governor;

6 (4) two members of the state board of education  
7 to be appointed by the president of the state board of  
8 education; and

9 (5) three members of the education community to  
10 be appointed by the governor.

11 C. The members of the board shall elect a president,  
12 a secretary and a treasurer.

13 D. The department shall staff the board.

14 E. The board shall:

15 (1) review proposals submitted by applicants to  
16 become school alternatives;

17 (2) allocate funding to the school alternatives  
18 selected;

19 (3) ensure that no more than twenty-five  
20 percent of available funding is allocated to any one school  
21 alternative; and

22 (4) evaluate the performance of school  
23 alternatives.

24 F. The board shall report annually to the  
25 legislative finance committee, the legislative education study

. 127913. 2

1 committee and the governor prior to October 15. The report  
2 shall include the amount of funding that students enrolled in  
3 school alternatives would have generated if they were enrolled  
4 in a public school.

5 Section 6. APPROPRIATION. --Three million dollars  
6 (\$3,000,000) is appropriated from the general fund to the  
7 department of finance and administration for expenditure in  
8 fiscal year 2000 for the purpose of carrying out the  
9 provisions of the Student Alternatives Act. No more than  
10 twenty-five percent per year of any appropriation may be used  
11 to contract with any one school alternative. Any unexpended  
12 or unencumbered balance remaining at the end of fiscal year  
13 2000 shall revert to the general fund.

14 Section 7. EMERGENCY.--It is necessary for the public  
15 peace, health and safety that this act take effect  
16 immediately.

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FORTY-FOURTH LEGISLATURE SB 173/a  
FIRST SESSION, 1999

February 24, 1999

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE BILL 173

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 173

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SFC/SB 173

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DO PASS, amended as follows:

1. On page 1, line 13, strike "; MAKING AN APPROPRIATION".
2. On page 5, lines 7 through 15, strike Section 6 in its entirety.
3. Renumber the succeeding section accordingly.

Respectfully submitted,

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Ben D. Altamirano, Chairman

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SFC/SB 173

Page 2

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Campos, Carraro, Ingle, Smith, Tsosie

Absent: none

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1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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6 March 19, 1999

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8 Mr. Speaker:

9  
10 Your APPROPRIATIONS AND FINANCE COMMITTEE, to whom  
11 has been referred

12  
13 SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
14 SENATE BILL 173, as amended

15  
16 has had it under consideration and reports same with  
17 recommendation that it DO PASS, amended as follows:

18 1. Strike House Education Committee Amendments 1, 17 and 18.

19  
20 2. On page 1, line 17, strike "This" and insert in lieu  
21 thereof "Sections 1 through 9 of this".

22  
23 3. On page 4, line 13, after "shall" insert a colon and  
24 strike the remainder of the line and all of line 14 and insert in  
25 lieu thereof the following paragraphs:

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SFC/SB 173

HAFCS/SFCS/SB 173, aa

Page 18

"(1) elect a president, secretary and treasurer; and

(2) adopt such rules as may be necessary and appropriate to implement the Student Alternatives Act, including:

(a) the application process for entities that seek to operate school alternatives;

(b) school alternative contracts;

(c) the admission process for at-risk students who attend school alternatives;

(d) the health and safety of at-risk students who attend school alternatives;

(e) the terms and conditions of employment of employees of school alternatives;

(f) the disbursement of funds to school alternatives; and

(g) the monitoring and evaluation of the performance of school alternatives."

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HARC/SFCS/SB 173, aa

Page 19

2. On page 5, between lines 6 and 7, insert the following new sections:

"Section 6. [NEW MATERIAL] APPLICATION TO OPERATE A SCHOOL ALTERNATIVE. --

A. The application process to operate a school alternative shall require the applying entity to provide information, including the following:

- (1) identity of the applying entity;
- (2) name and location of the school alternative;
- (3) academic focus and curriculum of the school alternative;
- (4) support service that will be provided by the school alternative;
- (5) school year for the school alternative;
- (6) target population of at-risk students that the school alternative will be designed to serve;

4 (7) projected enrollment of at-risk students at the  
5 school alternative;

6  
7 (8) composition, qualifications and method of  
8 selection of the governing body of the school alternative;

9  
10 (9) qualifications and areas of expertise of persons  
11 who will provide services to at-risk students at the school  
12 alternative;

13 (10) strategies for achieving parental and community  
14 involvement in the operation of the school alternative; and

15  
16 (11) proposed budget for each school year of the  
17 school alternative contract.

18 B. If the board denies an application for a school  
19 alternative, the board shall provide the unsuccessful applicant  
20 with a written statement explaining the basis for the denial. An  
21 unsuccessful applicant for a school alternative may reapply.

22  
23 Section 7. [NEW MATERIAL] SCHOOL ALTERNATIVE CONTRACTS. --

24 A. If the board approves an application a school  
25 alternative, the department and the successful applicant shall

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HARC/SFCS/SB 173, aa

Page 21

enter into a school alternative contract.

B. There shall be a provision in the school alternative contract establishing criteria for evaluating the performance of the school alternative, which shall include:

(1) retention, attendance and academic achievement of at-risk students; and

(2) financial management of the school alternative.

Section 8. [NEW MATERIAL] RIGHTS AND OBLIGATIONS OF SCHOOL ALTERNATIVES. --

A. A school alternative shall:

(1) comply with the provisions of the Student Alternatives Act, the rules adopted by the board and the school alternative contract;

(2) comply with the following provisions of the Public School Code:

(a) Sections 22-1-6 and 22-1-7 NMSA 1978;

4 (b) Section 22-2-8.4 NMSA 1978;

5  
6 (c) Sections 22-10-3 through 22-10-4 and  
7 22-10-22 NMSA 1978; and

8  
9 (d) Sections 22-12-1 through 22-12-8 NMSA 1978;

10 (3) not charge at-risk students for education  
11 services, support services or materials; and

12  
13 (4) provide, without charge, transportation for at-  
14 risk students residing within a two mile radius of the alternative  
15 school.

16  
17 B. A school alternative shall comply with the rules of  
18 the state board of education regarding content standards and  
19 benchmarks.

20 Section 9. [NEW MATERIAL] ADMISSION OF AT-RISK STUDENTS TO  
21 SCHOOL ALTERNATIVES. --

22  
23 A. A person shall be eligible to participate in the at-  
24 risk school alternative's pilot program if he:

25 (1) qualifies as an at-risk student under the

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HARC/SFCS/SB 173, aa

Page 23

Student Alternatives Act and the rules adopted by the board; and

(2) complies with the application process  
established by the board.

B. Except as provided in Subsection C of this section, a  
school alternative shall admit all eligible at-risk students who  
apply for admission, provided that if the number of such  
applicants exceeds the number of available spaces, a school  
alternative shall select eligible at-risk students on a random  
basis.

C. A school alternative may:

(1) limit admission to a targeted population of at-  
risk students, provided that such limitation may not discriminate  
on the basis of race, national origin, gender or religion; and

(2) give priority for admission to at-risk students  
who were enrolled in the school alternative during the previous  
school year.

Section 10. Section 22-10-3.3 NMSA 1978 (being Laws 1997,  
Chapter 238, Section 1, as amended) is amended to read:

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SFC/SB 173

HARC/SFCS/SB 173, aa

'22-10-3.3. BACKGROUND CHECKS. --

A. An applicant for initial certification or for employment in a school alternative shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a certificate for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the certification or employment decisions affecting the specific applicant. The applicant for initial certification shall pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards and the student alternatives board shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HARC/SFCS/SB 173, aa

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4 or a school alternative shall not be required to submit to another  
5 background check if the department of education has copies of his  
6 federal bureau of investigation records on file. An applicant who  
7 has been offered employment, a contractor or a contractor's  
8 employee with unsupervised access to students shall provide two  
9 fingerprint cards or the equivalent electronic fingerprints to the  
10 local school board to obtain his federal bureau of investigation  
11 record. The applicant who has been offered employment, contractor  
12 or contractor's employee with unsupervised access to students may  
13 be required to pay for the cost of obtaining a background check.  
14 At the request of a local school board or the student alternatives  
15 board, the department of education is authorized to release copies  
16 of federal bureau of investigation records that are on file with  
17 the department of education and that are not more than twelve  
18 months old. Convictions of felonies or misdemeanors contained in  
19 the federal bureau of investigation record shall be used in  
20 accordance with the Criminal Offender Employment Act; provided  
21 that other information contained in the federal bureau of  
22 investigation record, if supported by independent evidence, may  
23 form the basis for the employment decisions for good and just  
24 cause. Records and any related information shall be privileged  
25 and shall not be disclosed to a person not directly involved in  
the employment decision affecting the specific applicant who has  
been offered employment, contractor or contractor's employee with  
unsupervised access to students.

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

SFC/SB 173

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Page 26

~~[C. The department of education shall implement the provisions of Subsection A of this section on or before July 1, 1998.] "~~

3. Renumber the succeeding section accordingly.

Respectfully submitted,

\_\_\_\_\_  
Max Coll, Chairman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HARC/SFCS/SB 173, aa

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4 The roll call vote was 12 For 1 Against

5 Yes: 12

6 No: Heaton

7 Excused: Buffett, Picraux, Saavedra, Townsend

8 Absent: None

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