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**HOUSE BILL 15**

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

**INTRODUCED BY**

**James G. Taylor**

**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. [NEW MATERIAL] SHORT TITLE. -- Sections 1  
through 9 of this act may be cited as the "Student  
Alternatives Act".**

**Section 2. [NEW MATERIAL] 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:**

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1 (1) governmental entity, including the New  
2 Mexico youth conservation corps, a public school or a charter  
3 school, that enters into a contract with the department to  
4 provide alternative educational opportunities for students;

5 (2) secondary school located in New Mexico,  
6 operated by an Indian nation, tribe or pueblo or by the bureau  
7 of Indian affairs of the United States department of the  
8 interior; or

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

12 D. "student" means a person between the ages of  
13 fourteen and eighteen who has been disenrolled from a public  
14 school for any reason or whose attendance or conduct indicates  
15 that he may not meet graduation requirements provided in  
16 Section 22-2-8.4 NMSA 1978.

17 Section 3. [NEW MATERIAL] PILOT PROJECT--ALTERNATIVE  
18 EDUCATION. --

19 A. The department shall solicit proposals for a  
20 pilot program to provide alternative educational opportunities  
21 for students statewide, with special consideration given to  
22 proposals to serve the fifteen high schools with the highest  
23 annual dropout rate in the state as determined by the state  
24 department of public education. The department shall evaluate  
25 responses to its solicitation for proposals and provide

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1 recommendations to the board. In addition, the department  
2 shall monitor the performance of school alternatives.

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

4 Section 4. [NEW MATERIAL] ALTERNATIVE EDUCATION--  
5 STUDENTS.--

6 A. The department shall enter into a contract with  
7 each school alternative to provide educational services for  
8 students. The contract shall contain a provision that  
9 provides for a salary increase for a teacher employed at a  
10 school alternative whose students show exemplary improvement  
11 in academic achievement or attendance. The contract shall  
12 also contain a provision that provides more funding to a  
13 school alternative whose students, based on an independent  
14 analysis, demonstrate exemplary academic achievement and  
15 attendance.

16 B. Students enrolled in a school alternative shall  
17 be held to the graduation requirements provided in Section  
18 22-2-8.4 NMSA 1978. School alternatives shall provide  
19 students with transcripts.

20 C. School alternatives may contract for services,  
21 including transportation, emergency medical services, food  
22 services and security, necessary to provide educational  
23 services to students.

24 D. A school alternative may operate on the same  
25 site as a public school.

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1           E. Except as provided in Section 22-10-3.3 NMSA  
2 1978, school alternatives shall be exempt from the  
3 requirements of the School Personnel Act.

4           F. School alternatives shall maintain records of  
5 student attendance, retention, academic achievement and the  
6 number of students who pass the New Mexico high school  
7 competency exam.

8           G. School alternatives shall be evaluated by the  
9 board on the basis of student attendance, retention, academic  
10 achievement and the number of students who pass the New Mexico  
11 high school competency examination.

12           H. School alternatives shall enroll no less than  
13 one hundred students and no more than two hundred students.

14           Section 5. [NEW MATERIAL] BOARD--FUNDING.--

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

16           B. The board shall be comprised of:

17                   (1) two public members to be appointed by the  
18 speaker of the house of representatives;

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

21                   (3) two representatives of Indian nations,  
22 tribes or pueblos located in New Mexico who are experts in  
23 educational issues to be appointed by the New Mexico  
24 commission on Indian affairs;

25                   (4) two representatives of the business

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1 community to be appointed by the governor;

2 (5) two members of the state board of  
3 education to be appointed by the president of the state board  
4 of education; and

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

7 C. The members of the board shall:

8 (1) elect a president, secretary and  
9 treasurer; and

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

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

15 (b) school alternative contracts;

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

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

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

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

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

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1 D. The department shall staff the board.

2 E. The board shall:

3 (1) review proposals submitted by applicants  
4 to become school alternatives;

5 (2) allocate funding to the school  
6 alternatives selected;

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

10 (4) evaluate the performance of school  
11 alternatives.

12 F. The board shall report annually to the state  
13 board of education, the legislative finance committee, the  
14 legislative education study committee and the office of the  
15 governor prior to October 15.

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

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

21 (1) identity of the applying entity;

22 (2) name and location of the school  
23 alternative;

24 (3) academic focus and curriculum of the  
25 school alternative;

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1 (4) support service that will be provided by  
2 the school alternative;

3 (5) school year for the school alternative;

4  
5 (6) target population of at-risk students  
6 that the school alternative will be designed to serve;

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

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

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

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

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

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

24 Section 7. [NEW MATERIAL] SCHOOL ALTERNATIVE  
25 CONTRACTS. --

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1           A. If the board approves an application for a  
2 school alternative, the department and the successful  
3 applicant shall enter into a school alternative contract.

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

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

9                   (2) financial management of the school  
10 alternative.

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

13           A. A school alternative shall:

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

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

19                           (a) Sections 22-1-6 and 22-1-7 NMSA  
20 1978;

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

22                           (c) Sections 22-10-3 through 22-10-4  
23 and 22-10-22 NMSA 1978; and

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



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

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

6 B. A school alternative shall comply with the  
7 rules of the state board of education regarding content  
8 standards and benchmarks.

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

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

13 (1) qualifies as an at-risk student pursuant  
14 to the Student Alternatives Act and the rules adopted by the  
15 board; and

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

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

24 C. A school alternative may:

25 (1) limit admission to a targeted population

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1 of at-risk students; provided that such limitation may not  
2 discriminate on the basis of race, national origin, gender or  
3 religion; and

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

7 Section 10. Section 22-10-3.3 NMSA 1978 (being Laws  
8 1997, Chapter 238, Section 1, as amended) is amended to read:

9 "22-10-3.3. BACKGROUND CHECKS. --

10 A. An applicant for initial certification or for  
11 employment in a school alternative shall be fingerprinted and  
12 shall provide two fingerprint cards or the equivalent  
13 electronic fingerprints to the department of education to  
14 obtain the applicant's federal bureau of investigation record.  
15 Convictions of felonies or misdemeanors contained in the  
16 federal bureau of investigation record shall be used in  
17 accordance with the Criminal Offender Employment Act. Other  
18 information contained in the federal bureau of investigation  
19 record, if supported by independent evidence, may form the  
20 basis for the denial, suspension or revocation of a  
21 certificate for good and just cause. Records and [ any]  
22 related information shall be privileged and shall not be  
23 disclosed to a person not directly involved in the  
24 certification or employment decisions affecting the specific  
25 applicant. The applicant for initial certification shall pay

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1 for the cost of obtaining the federal bureau of investigation  
2 record.

3 B. Local school boards and the student  
4 alternatives board shall develop policies and procedures to  
5 require background checks on an applicant who has been offered  
6 employment, a contractor or a contractor's employee with  
7 unsupervised access to students at a public school, including  
8 a charter school. An applicant for employment who has been  
9 initially certified within twelve months of applying for  
10 employment with a local school board, a school alternative or  
11 a charter school shall not be required to submit to another  
12 background check if the department of education has copies of  
13 his federal bureau of investigation records on file. An  
14 applicant who has been offered employment, a contractor or a  
15 contractor's employee with unsupervised access to students at  
16 a public school, including a charter school, shall provide two  
17 fingerprint cards or the equivalent electronic fingerprints to  
18 the local school board to obtain his federal bureau of  
19 investigation record. The applicant who has been offered  
20 employment, contractor or contractor's employee with  
21 unsupervised access to students at a public school, including  
22 a charter school or school alternative, may be required to pay  
23 for the cost of obtaining a background check. At the request  
24 of a local school board, student alternatives board or charter  
25 school, the department of education is authorized to release

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1 copies of federal bureau of investigation records that are on  
2 file with the department of education and that are not more  
3 than twelve months old. Convictions of felonies or  
4 misdemeanors contained in the federal bureau of investigation  
5 record shall be used in accordance with the Criminal Offender  
6 Employment Act; provided that other information contained in  
7 the federal bureau of investigation record, if supported by  
8 independent evidence, may form the basis for the employment  
9 decisions for good and just cause. Records and [ any] related  
10 information shall be privileged and shall not be disclosed to  
11 a person not directly involved in the employment decision  
12 affecting the specific applicant who has been offered  
13 employment, contractor or contractor's employee with  
14 unsupervised access to students at a public school, including  
15 a charter school.

16 C. The department of education shall implement the  
17 provisions of Subsection A of this section on or before  
18 July 1, 1998. "

19 Section 11. APPROPRIATION. --Three million dollars  
20 (\$3,000,000) is appropriated from the general fund to the  
21 department of finance and administration for expenditure in  
22 fiscal year 2000 for the purpose of carrying out the  
23 provisions of the Student Alternatives Act. No more than  
24 twenty-five percent per year of any appropriation may be  
25 used to contract with any one school alternative. Any

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1 unexpended or unencumbered balance remaining at the end of  
2 fiscal year 2000 shall revert to the general fund.

3 Section 12. EMERGENCY.--It is necessary for the public  
4 peace, health and safety that this act take effect  
5 immediately.

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