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SENATE BILL 2

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

INTRODUCED BY

William F. Davis

AN ACT

**RELATING TO SCHOOL VOUCHERS FOR ELEMENTARY AND SECONDARY
EDUCATION; AUTHORIZING REDEMPTION OF VOUCHERS AT PUBLIC AND
PRIVATE SCHOOLS; AMENDING AND ENACTING SECTIONS OF THE PUBLIC
SCHOOL CODE.**

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

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

**"NEW MATERIAL SHORT TITLE. -- Sections 1 through 8 of
this act may be cited as the "Elementary and Secondary School
Voucher Act". "**

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

"NEW MATERIAL LEGISLATIVE FINDINGS AND PURPOSE. --

A. The legislature finds that:

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

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

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

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

13 B. The purpose of the Elementary and Secondary
14 School Voucher Act is to establish a voucher program that
15 provides New Mexico's students the opportunity to attend their
16 choice of public or private schools in order to best suit
17 their individual needs and interests. "

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

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

22 A. "family income" means "earned income" as
23 defined in the New Mexico Works Act and includes the income of
24 a student's parent or legal guardian who resides with the
25 student at the student's principal residence;

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1 B. "federal poverty guidelines" means the level of
2 income defining poverty by family size published annually in
3 the federal register by the United States department of health
4 and human services;

5 C. "program" means the elementary and secondary
6 school voucher program; and

7 D. "voucher" means an instrument issued to a
8 qualifying parent through the department of education that can
9 be used to educate his child at a public or eligible private
10 school as defined in the Public School Code. "

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

13 "[NEW MATERIAL] ADMINISTRATION OF THE PROGRAM - ADOPTING
14 RULES. --

15 A. The department of education shall establish and
16 bear the cost of administering the program.

17 B. The state board shall establish guidelines for
18 the implementation and operation of the program.

19 C. A private school shall not be required to
20 participate in the program.

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

25 Section 5. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] ELIGIBLE STUDENTS. --

3 A. A student who is a resident of New Mexico, is
4 at least five years of age prior to 12:01 a.m. September 1 of
5 the school year or is a developmentally disabled three- or
6 four-year-old child is eligible to participate in the program
7 if the following criteria are met:

8 (1) for the four school years beginning in
9 the years 2000 through 2003, the student resides in a class A
10 county or a class B county with a population of greater than
11 ninety-five thousand and a net taxable value for property
12 taxation purposes of greater than two billion dollars
13 (\$2,000,000,000) and:

14 (a) for the school year beginning in
15 the year 2000, the student's family income in 1999 does not
16 exceed one hundred percent of the 1999 federal poverty
17 guidelines;

18 (b) for the school year beginning in
19 the year 2001, the student's family income in 2000 does not
20 exceed one hundred eighty-five percent of the 2000 federal
21 poverty guidelines;

22 (c) for the school year beginning in
23 the year 2002, the student's family income in 2001 does not
24 exceed two hundred thirty-five percent of the 2001 federal
25 poverty guidelines; and

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1 (d) for the school year beginning in
2 the year 2003 and for all subsequent school years, the student
3 resides in a class A or a class B county with a population of
4 greater than ninety-five thousand and a net taxable value of
5 more than two billion dollars (\$2,000,000,000) without regard
6 to family income;

7 (2) for the four school years beginning in
8 the years 2004 through 2007, the student resides in a class B
9 county not described in Paragraph (1) of this subsection and:

10 (a) for the school year beginning in
11 the year 2004, the student's family income in 2003 does not
12 exceed one hundred percent of the 2003 federal poverty
13 guidelines;

14 (b) for the school year beginning in
15 the year 2005, the student's family income in 2004 does not
16 exceed one hundred eighty-five percent of the 2004 federal
17 poverty guidelines;

18 (c) for the school year beginning in
19 the year 2006, the student's family income in 2005 does not
20 exceed two hundred thirty-five percent of the 2005 federal
21 poverty guidelines; and

22 (d) for the school year beginning in
23 the year 2007 and for all subsequent school years, the student
24 resides in a class B county without regard to family income;
25 and

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1 (3) for the four school years beginning in
2 the years 2008 through 2011, the student resides in any county
3 not covered by Paragraph (1) or (2) of this subsection and:

4 (a) for the school year beginning in
5 the year 2008, the student's family income in 2007 does not
6 exceed one hundred percent of the 2007 federal poverty
7 guidelines;

8 (b) for the school year beginning in
9 the year 2009, the student's family income in 2008 does not
10 exceed one hundred eighty-five percent of the 2008 poverty
11 guidelines;

12 (c) for the school year beginning in
13 the year 2010, the student's family income in 2009 does not
14 exceed two hundred thirty-five percent of the 2009 poverty
15 guidelines; and

16 (d) for the school year beginning in
17 the year 2011 and for all subsequent school years, all
18 students residing in a county not covered by Paragraph (1) or
19 (2) of this subsection shall be eligible to participate in the
20 program.

21 B. A New Mexico student who is not otherwise
22 eligible to receive a voucher pursuant to Subsection A of this
23 section is eligible to participate in the program for the
24 school year beginning in the year 2011 and for all subsequent
25 school years.

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1 C. A student who receives a voucher pursuant to
2 the Elementary and Secondary School Voucher Act shall
3 participate in the testing required by Subsection B of Section
4 22-1-6 NMSA 1978. The testing shall be administered by the
5 school district in which the student who receives the voucher
6 resides. "

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

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

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

12 (1) register with the superintendent of the
13 school district in which the private school is located as an
14 eligible private school;

15 (2) maintain or develop antidiscrimination
16 policies to prevent discrimination on the basis of race,
17 color, national origin or ancestry; and

18 (3) develop policies that do not discriminate
19 against students who are recipients of elementary and
20 secondary school vouchers.

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

25 Section 7. A new section of the Public School Code is

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1 enacted to read:

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

3 A. A parent may use a voucher to enroll his child
4 in a public school outside of the school district in which the
5 child resides.

6 B. A school district shall adopt specific, written
7 standards for acceptance and rejection of vouchers provided
8 for in the Elementary and Secondary School Voucher Act to be
9 used for enrollment in public schools based on the capacity of
10 a program, class size, grade level or school buildings.

11 C. Not earlier than February 15 and not later than
12 May 15 prior to the beginning of a school year, a student's
13 parent or legal guardian may apply to the school district
14 superintendent of the district in which the student resides to
15 participate in the program. The school district
16 superintendent may waive the application deadline. The
17 application shall contain the following information:

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

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1 resides with the student at the student's principal residence,
2 when required by the school district superintendent, proof of
3 income eligibility through copies of:

4 (a) the student's, parent's or legal
5 guardian's three most recent paycheck receipts for all
6 employment;

7 (b) a signed statement by the parent's
8 or legal guardian's employer indicating his weekly, biweekly
9 or annual net earnings; or

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

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

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

21 (10) the name, tuition, fees and address of
22 the public or private school to which the student intends to
23 apply.

24 D. No later than thirty days after the application
25 is received, the school district superintendent receiving an

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

4 E. The voucher shall be issued to the student by
5 July 1 in the care of the student's parent or legal guardian.
6 The voucher shall not be issued to the private school or
7 school district containing the public school that the student
8 chooses to attend. The student or the student's parent or
9 legal guardian shall submit the voucher to the selected
10 private school.

11 F. The student and his parent or legal guardian
12 shall solely select the public or private school the student
13 chooses to attend. The state shall not decide which school a
14 student may attend. The state shall not advise or influence
15 the student's selection of a school.

16 G. Not later than August 15 of each year, the
17 local school district superintendent shall report to the
18 department of education the ages, school attendance zones and
19 voucher values of students participating in the program "

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

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

23 A. The value of the voucher shall be equal to the
24 amount of money generated by the student through the state
25 equalization guarantee distribution provided in the Public

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1 School Finance Act and a proportionate per student amount for
2 transportation expenses if the student had attended a public
3 school in his school attendance zone, excluding any size or
4 training and experience adjustment for the school district or
5 the public school. The value of the voucher shall also
6 include a proportionate allocation for the local school
7 district's at-risk funding. The department of education shall
8 calculate the value of a student's voucher using the state
9 equalization guarantee distribution formula.

10 B. Subject to the value of the voucher set forth
11 in Subsection A of this section, the voucher redemption value
12 shall not exceed the tuition and fees charged by a private
13 school for students not participating in the program unless
14 the cost of educating the student presenting the voucher is
15 greater than the tuition and fees charged, in which case the
16 value of the voucher shall not exceed those costs.

17 C. Within fifteen days after receiving a voucher,
18 a private school shall, in writing, certify the enrollment of
19 the student named on the voucher and shall, in writing,
20 certify the amount of tuition and fees charged by the private
21 school to the department of education.

22 D. A private school or public school located
23 outside of the student's attendance zone shall redeem the
24 value of the voucher from the school district issuing it in
25 the following installments: twenty-five percent of the value

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

8 E. If a private school disenrolls a student during
9 the school year or if the student is absent for ten
10 consecutive days without explanation from his parent or legal
11 guardian, the private school shall, in writing, notify the
12 school district that issued the voucher, and the voucher
13 redemption shall cease.

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

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

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

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

5 B. "membership" means the total enrollment of
6 qualified students on the current roll of a class or school on
7 a specified day and all students who have qualified for
8 receipt of vouchers for use in private schools pursuant to the
9 Elementary and Secondary School Voucher Act. The current roll
10 is established by the addition of original entries and
11 reentries minus withdrawals. Withdrawals of students, in
12 addition to students formally withdrawn from the public
13 school, include students absent from the public school for as
14 many as ten consecutive school days;

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

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

24 E. "department" or "division" means the state
25 department of public education;

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1 F. "early childhood education ADM" or "early
2 childhood education MEM" means the full-time-equivalent MEM of
3 students attending approved early childhood education
4 programs;

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

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

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

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

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

24 L. "public money" or "public funds" means all
25 money from public or private sources received by a local

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1 school board or officer or employee of a local school board
2 for public use;

3 M "qualified student" means a public school
4 student who:

5 (1) has not graduated from high school;
6 (2) is regularly enrolled in one-half or more
7 of the minimum course requirements approved by the state board
8 for public school students; and

9 (3) is at least five years of age prior to
10 12:01 a.m. on September 1 of the school year; or

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

14 (5) has not reached his twenty-second
15 birthday on the first day of the school year and is receiving
16 special education services pursuant to regulation of the state
17 board; and

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