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SENATE BILL 7

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

INTRODUCED BY

Billy J. McKibben

AN ACT

RELATING TO EDUCATION; CREATING A JUMPSTART IN EDUCATION PROGRAM; PROVIDING BEGINNING STUDENTS BROADER EDUCATIONAL OPPORTUNITIES; ENACTING THE JUMPSTART IN EDUCATION ACT; ENACTING AND AMENDING SECTIONS OF THE NMSA 1978.

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 10 of this act may be cited as the "Jumpstart in Education Act"."

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

"NEW MATERIAL JUMPSTART IN EDUCATION ACT--

DEFINITIONS. -- As used in the Jumpstart in Education Act:

A. "child" means an individual who is five years

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1 of age at 12:01 a.m. on August 31 of the school year in which
2 program participation is sought and for whom a parent has the
3 legal authority to make decisions;

4 B. "parent" means the natural or adoptive parent,
5 the guardian or legal custodian of a child;

6 C. "program" means the jumpstart in education
7 program authorized pursuant to the Jumpstart in Education Act;
8 and

9 D. "voucher" means a written instrument issued by
10 the department of education that may be used to pay education
11 expenses of a child enrolled in a private school
12 kindergarten. "

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

15 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--
16 ELIGIBILITY.--A child is eligible to participate in the
17 program if the child was not receiving special education
18 services pursuant to rules of the state board in the previous
19 school year and if, in the current school year, the child is
20 eligible for enrollment in kindergarten. "

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

23 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT-- REQUIREMENTS
24 FOR PARTICIPATION IN PROGRAM BY PRIVATE SCHOOL KINDERGARTEN--
25 LIMITATION ON NUMBER OF PARTICIPATING STUDENTS.-- To

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1 participate in the program, a private school kindergarten
2 shall:

3 A. before October 15 of the prior school year,
4 notify the state superintendent and local school board of the
5 school district in which the private school kindergarten is
6 located of its intent to participate in the program and of the
7 anticipated number of children participating in the program
8 for which it will have space in the current school year;

9 B. comply with the provisions of 42 USCA 2000d;

10 C. meet all health and safety laws and codes that
11 apply to a public school kindergarten;

12 D. not discriminate between students participating
13 in the program and other students;

14 E. accept students participating in the program on
15 a random basis; and

16 F. comply with all program requirements for
17 participation of a private school kindergarten established by
18 rules of the state board. "

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

21 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--APPLICATION
22 FOR PARTICIPATION IN THE PROGRAM --

23 A. A parent with whom a child resides may submit
24 an application for participation in the program on a form
25 provided by the state superintendent. The application shall

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1 be submitted to a participating private school kindergarten
2 chosen by the applicant, and a copy shall be sent to the
3 department of education. The application shall be submitted
4 by delivery or mail and shall be considered received when
5 delivered or three days after mailing. An application must be
6 received no earlier than March 1 and no later than May 1 prior
7 to the beginning of a school year. The application shall
8 contain at least the following information:

- 9 (1) the child's name and address;
- 10 (2) the parent's name and address;
- 11 (3) the child's social security number;
- 12 (4) the school district in which the child
13 resides and the child's public school attendance zone;
- 14 (5) whether the child speaks a language
15 other than English as his principal language; and
- 16 (6) other information required by the state
17 board to be included in the application.

18 B. Within sixty days after receiving the
19 application, the private school kindergarten shall notify the
20 applicant, in writing, that the application has been accepted
21 or rejected and in the latter event shall state the reasons
22 for rejection. The state board shall require by rule a random
23 selection process.

24 C. If the private school kindergarten rejects an
25 application because it has too few available spaces, the

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1 applicant may transfer the application to a participating
2 private school kindergarten that has available space by
3 submitting the application to that school and notifying the
4 department of education in writing of the transfer no later
5 than five days after its submission. The school to which the
6 transferred application is submitted shall notify the
7 applicant of acceptance or rejection within thirty days of
8 receipt of the application.

9 D. Within five days after receipt of notification
10 of acceptance of a child from the private school kindergarten
11 the applicant shall notify the state superintendent in writing
12 of the fact of acceptance. "

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

15 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--ISSUANCE OF
16 VOUCHER.--No later than five days after receipt of
17 notification of acceptance from an applicant, the state
18 superintendent shall issue a voucher to the applicant. The
19 voucher shall be presented to the private school kindergarten
20 within ten days after receipt by the applicant. "

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

23 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--REDEMPTION
24 VALUE OF VOUCHER--REDEMPTION OF VOUCHER BY SCHOOL.--

25 A. Except as otherwise provided in Subsection C of
. 129430. 2

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1 this section, the redemption value of a voucher is the sum of:

2 (1) the amount of money that would be
3 generated by the child through the state equalization
4 guarantee distribution pursuant to the Public School Finance
5 Act if the student attended a public school kindergarten
6 within his attendance zone, excluding size, training or
7 experience adjustment for the school district or the public
8 school;

9 (2) a proportionate allocation for the local
10 school district's at-risk funding; and

11 (3) a proportionate per child amount for
12 transportation expenses that would be generated by the child
13 if he attended a public school kindergarten within his
14 attendance zone.

15 B. The department of education shall calculate the
16 redemption value of a child's voucher. The parent shall pay
17 to the private school kindergarten any amount by which the
18 tuition and fees exceed the redemption value of the voucher.
19 Payment shall be made in accordance with the agreement of the
20 parent and the private school kindergarten.

21 C. The redemption value of a voucher shall not
22 exceed the tuition and fees charged by the participating
23 private school kindergarten for children not participating in
24 the program unless the cost of educating the child presenting
25 the voucher is greater than the tuition and fees charged, in

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1 which case the value of the voucher shall not exceed those
2 costs. The state board shall establish a method of
3 determining costs of educating participating children and that
4 method shall be used in determining the redemption value of a
5 voucher.

6 D. Within fifteen days after receiving a voucher,
7 a private school kindergarten shall certify enrollment of the
8 child named on the voucher and shall certify the amount of
9 tuition and fees charged by the private school kindergarten to
10 the department of education.

11 E. A private school kindergarten or school
12 district shall redeem the value of the voucher from the
13 department of education in the following installments:
14 twenty-five percent of the value in September, twenty-five
15 percent of the value in November, twenty-five percent of the
16 value in February and twenty-five percent of the value in May.
17 The installments shall be paid on the first day of the
18 applicable month.

19 F. If a participating child voluntarily withdraws
20 from a private school kindergarten and is enrolled in another
21 participating private school kindergarten or in a public
22 school kindergarten during the school year, the parent shall
23 notify the department of education. Upon receipt of proof of
24 enrollment in another private school kindergarten and
25 certification of tuition and fees charged by the new private

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1 school, the unredeemed voucher installments shall be made to
2 the new private school kindergarten. Upon proof of enrollment
3 in a public school kindergarten, the remaining redemption
4 installments shall be made to the school district in which the
5 public school is located. "

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

8 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT-- DUTIES OF
9 STATE SUPERINTENDENT.-- The state superintendent shall:

10 A. recommend to the state board those procedures
11 and rules that are necessary to fully implement the Jumpstart
12 in Education Act;

13 B. be responsible for administering the program;
14 and

15 C. ensure parents are informed annually of the
16 private school kindergartens participating in the program
17 pursuant to this section. "

18 Section 9. A new section of the Public School Code is
19 enacted to read:

20 "[NEW MATERIAL] JUMPSTART IN EDUCATION ACT--
21 TRANSPORTATION.-- The parent of a participating child shall be
22 responsible for transportation of the child to and from the
23 private school kindergarten. "

24 Section 10. A new section of the Public School Code is
25 enacted to read:

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1 " [NEW MATERIAL] JUMPSTART IN EDUCATION ACT--STANDARDS FOR
2 PARTICIPATING PRIVATE SCHOOL KINDERGARTENS. --

3 A. A private school kindergarten participating in
4 the program shall submit annually to the department of
5 education a performance audit of the private school
6 kindergarten prepared by an independent qualified performance
7 auditor that demonstrates that the school meets at least one
8 of the following standards:

9 (1) at least seventy percent of the children
10 in the program advance to grade one each year;

11 (2) the private school kindergarten's average
12 attendance rate for the children in the program is at least
13 ninety percent;

14 (3) at least eighty percent of the children
15 in the program demonstrate significant academic progress; or

16 (4) at least seventy percent of the families
17 of children in the program meet parental involvement criteria
18 established by the private school kindergarten.

19 B. The state superintendent shall monitor the
20 performance of the children participating in the program. If
21 the state superintendent determines in a school year that the
22 private school kindergarten is not meeting at least one of the
23 standards set forth in Subsection A of this section, that
24 private school kindergarten may not participate in the program
25 in the following school year.

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1 C. A private school kindergarten may not require a
2 student attending the school pursuant to the Jumpstart in
3 Education Act to participate in a religious activity if the
4 parent submits to the school's principal a written request
5 that the student be exempt from those activities."

6 Section 11. Section 22-2-2 NMSA 1978 (being Laws 1967,
7 Chapter 16, Section 5, as amended) is amended to read:

8 "22-2-2. STATE BOARD--DUTIES.--Without limiting those
9 powers granted to the state board pursuant to Section 22-2-1
10 NMSA 1978, the state board shall perform the following duties:

- 11 A. properly and uniformly enforce the provisions
12 of the Public School Code;
- 13 B. determine policy for the operation of all
14 public schools and vocational education programs in the state;
- 15 C. appoint a state superintendent;
- 16 D. purchase and loan instructional material to
17 students pursuant to the Instructional Material Law and adopt
18 rules relating to the use and operation of instructional
19 material depositories in the instructional material
20 distribution process;
- 21 E. designate courses of instruction to be taught
22 in all public schools in the state;
- 23 F. assess and evaluate all state institutions and
24 those private schools that desire state accreditation;
- 25 G. determine the qualifications for and issue a

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1 certificate to [~~any~~] a person teaching, assisting teachers,
2 supervising an instructional program, counseling, providing
3 special instructional services or administering in public
4 schools, according to law and according to a system of
5 classification adopted and published by the state board;

6 H. suspend or revoke a certificate held by a
7 certified school instructor or certified school administrator,
8 according to law, for incompetency, immorality or for any
9 other good and just cause;

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

12 J. prescribe courses of instruction, requirements
13 for graduation and standards for all public schools, for
14 private schools seeking state accreditation and for the
15 educational programs conducted in state institutions other
16 than the New Mexico military institute;

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

19 L. require periodic reports on forms prescribed by
20 it from all public schools and attendance reports from private
21 schools;

22 M. authorize adult educational programs to be
23 conducted in schools under its jurisdiction and adopt and
24 promulgate rules governing all such adult educational
25 programs;

. 129430. 2

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1 N. require [~~any~~] a school under its jurisdiction
2 that sponsors athletic programs involving sports to mandate
3 that the participating student obtain catastrophic health and
4 accident insurance coverage, such coverage to be offered
5 through the school and issued by an insurance company duly
6 licensed pursuant to the laws of New Mexico;

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

9 P. accept and receive all grants of money from the
10 federal government or [~~any other~~] another agency for public
11 school purposes and disburse the money in the manner and for
12 the purpose specified in the grant;

13 Q. require prior approval for [~~any~~] an educational
14 program in a public school that is to be conducted, sponsored,
15 carried on or caused to be carried on by a private
16 organization or agency;

17 R. approve or disapprove all rules promulgated by
18 [~~any~~] an association or organization attempting to regulate
19 [~~any~~] a public school activity and invalidate [~~any~~] a rule in
20 conflict with [~~any rule~~] rules promulgated by the state board.
21 The state board shall require [~~any~~] an association or
22 organization attempting to regulate any public school activity
23 to comply with the provisions of the Open Meetings Act and be
24 subject to the inspection of the Public Records Act. The
25 state board may require performance and financial audits of

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1 [any] an association or organization attempting to regulate
2 [any] a public school activity. The state board shall have no
3 power or control over the rules or the bylaws governing the
4 administration of the internal organization of the association
5 or organization;

6 S. review decisions made by the governing board or
7 officials of [any] an organization or association regulating
8 [any] a public school activity, and [any] a decision of the
9 state board shall be final in respect thereto;

10 T. accept or reject [any] a charitable gift,
11 grant, devise or bequest. The particular gift, grant, devise
12 or bequest accepted shall be considered an asset of the state;

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

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

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

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

16 Y. submit a plan applying for funds available
17 [~~under~~] pursuant to Public Law 94-142 and disburse these funds
18 in the manner and for the purposes specified in the plan;

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

23 AA. develop a systemic framework for professional
24 development that provides training to ensure quality teachers
25 and principals and that improves and enhances student

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1 achievement. The state board shall work with public school
2 educators, the commission on higher education and institutions
3 of higher education to establish the framework. The framework
4 shall include:

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

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

16 BB. determine rules and policies for the operation
17 of the Jumpstart in Education Act. "

18 Section 12. SEVERABILITY. --If any part or application of
19 the Jumpstart in Education Act is held invalid, the remainder
20 or its application to other situations or persons shall not be
21 affected.

22 Section 13. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is July 1, 2000.