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SENATE BILL 35

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL 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. [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 I. For each student attending a school
15 alternative, the school shall receive an amount equal to the
16 amount of money generated by the student through the state
17 equalization guarantee distribution provided in the Public
18 School Finance Act and a proportionate per student amount for
19 transportation expenses if the student had attended a public
20 school in his school attendance zone, excluding any size or
21 training and experience adjustment for the school district or
22 the public school.

23 Section 5. [NEW MATERIAL] 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 public members to be appointed by the
2 speaker of the house of representatives;

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

5 (3) two representatives of Indian nations,
6 tribes or pueblos located in New Mexico who are experts in
7 educational issues to be appointed by the New Mexico
8 commission on Indian affairs;

9 (4) two representatives of the business
10 community to be appointed by the governor;

11 (5) two members of the state board of
12 education to be appointed by the president of the state board
13 of education; and

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

16 C. The members of the board shall:

17 (1) elect a president, secretary and
18 treasurer; and

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

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

24 (b) school alternative contracts;

25 (c) the admission process for at-risk

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1 students who attend school alternatives;

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

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

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

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

10 D. The department shall staff the board.

11 E. The board shall:

12 (1) review proposals submitted by applicants
13 to become school alternatives;

14 (2) allocate funding to the school
15 alternatives selected;

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

19 (4) evaluate the performance of school
20 alternatives.

21 F. The board shall report annually to the state
22 board of education, the legislative finance committee, the
23 legislative education study committee and the office of the
24 governor prior to October 15.

25 Section 6. [NEW MATERIAL] APPLICATION TO OPERATE A

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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;
 - (7) projected enrollment of at-risk students at the school alternative;
 - (8) composition, qualifications and method of selection of the governing body of the school alternative;
 - (9) qualifications and areas of expertise of persons who will provide services to at-risk students at the school alternative;
 - (10) strategies for achieving parental and community involvement in the operation of the school alternative; and
 - (11) proposed budget for each school year of

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1 the school alternative contract.

2 B. If the board denies an application for a school
3 alternative, the board shall provide the unsuccessful
4 applicant with a written statement explaining the basis for
5 the denial. An unsuccessful applicant for a school
6 alternative may reapply.

7 Section 7. [NEW MATERIAL] SCHOOL ALTERNATIVE
8 CONTRACTS. --

9 A. If the board approves an application for a
10 school alternative, the department and the successful
11 applicant shall enter into a school alternative contract.

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

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

17 (2) financial management of the school
18 alternative.

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

21 A. A school alternative shall:

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

25 (2) comply with the following provisions of

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- 1 the Public School Code:
- 2 (a) Sections 22-1-6 and 22-1-7 NMSA
- 3 1978;
- 4 (b) Section 22-2-8.4 NMSA 1978;
- 5 (c) Sections 22-10-3 through 22-10-4
- 6 and 22-10-22 NMSA 1978; and
- 7 (d) Sections 22-12-1 through 22-12-8
- 8 NMSA 1978;
- 9 (3) not charge at-risk students for education
- 10 services, support services or materials; and
- 11 (4) provide, without charge, transportation
- 12 for at-risk students residing within a two-mile radius of the
- 13 alternative school.

14 B. A school alternative shall comply with the

15 rules of the state board of education regarding content

16 standards and benchmarks.

17 Section 9. [NEW MATERIAL] ADMISSION OF AT-RISK STUDENTS

18 TO SCHOOL ALTERNATIVES. --

19 A. A person shall be eligible to participate in

20 the at-risk school alternative's pilot program if he:

- 21 (1) qualifies as an at-risk student pursuant
- 22 to the Student Alternatives Act and the rules adopted by the
- 23 board; and
- 24 (2) complies with the application process
- 25 established by the board.

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

7 C. A school alternative may:
8 (1) limit admission to a targeted population
9 of at-risk students; provided that such limitation may not
10 discriminate on the basis of race, national origin, gender or
11 religion; and

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

15 Section 10. Section 22-10-3.3 NMSA 1978 (being Laws
16 1997, Chapter 238, Section 1, as amended) is amended to read:

17 "22-10-3.3. BACKGROUND CHECKS. --

18 A. An applicant for initial certification or for
19 employment in a school alternative shall be fingerprinted and
20 shall provide two fingerprint cards or the equivalent
21 electronic fingerprints to the department of education to
22 obtain the applicant's federal bureau of investigation record.
23 Convictions of felonies or misdemeanors contained in the
24 federal bureau of investigation record shall be used in
25 accordance with the Criminal Offender Employment Act. Other

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1 information contained in the federal bureau of investigation
2 record, if supported by independent evidence, may form the
3 basis for the denial, suspension or revocation of a
4 certificate for good and just cause. Records and [any]
5 related information shall be privileged and shall not be
6 disclosed to a person not directly involved in the
7 certification or employment decisions affecting the specific
8 applicant. The applicant for initial certification shall pay
9 for the cost of obtaining the federal bureau of investigation
10 record.

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

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

24 C. The department of education shall implement the
25 provisions of Subsection A of this section on or before

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1 July 1, 1998. "

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

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