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SENATE BILL 717

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

INTRODUCED BY

Ramsey Gorham

AN ACT

RELATING TO EDUCATION; ENACTING THE VOTE FOR EDUCATION ACT;
AMENDING AND ENACTING 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. -- Section 1 through 4 of this act may be cited as the "Vote for Education Act". "

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

" [NEW MATERIAL] DEFINITIONS. -- As used in the Vote for Education Act:

A. "low-performance school" means public schools whose combined test scores and dropout rate place them in the lowest two percent performance level of all the schools in the

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1 state;

2 B. "parent" means a natural parent or legal
3 guardian; and

4 C. "voucher" means a note issued to a parent from
5 the department of education that may be used to enroll a
6 student at a public school, charter school, nonprofit entity
7 or private school pursuant to the Vote for Education Act. "

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

10 "[NEW MATERIAL] ESTABLISHMENT OF LOW-PERFORMANCE VOUCHER
11 PROGRAM --

12 A. The department of education shall develop a
13 program to provide vouchers to students at a low-performance
14 school.

15 B. Parents of the students attending the low-
16 performance schools shall vote to determine whether the school
17 will become a:

- 18 (1) public school with a new administration;
 - 19 (2) charter school; or
 - 20 (3) a private or nonprofit entity that
- 21 accepts all students who were previously enrolled in the low-
22 performance school.

23 C. On December 15 of each year, the department of
24 education shall publish a list of low-performance schools in
25 the state.

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1 D. The department of education shall recruit
2 interested nonprofit entities or private schools that express
3 an interest in contracting with the department to enroll
4 students who are enrolled at a low-performance public school.
5 The department shall provide this list of interested nonprofit
6 entities or private schools to the school districts in which
7 low-performance schools are located. The department shall
8 also provide an approximate value of a voucher for a student
9 who uses the voucher at a public school and the approximate
10 value of a voucher for a student who uses the voucher at a
11 nonprofit entity or a private school.

12 E. Beginning on January 4 of each year the school
13 districts in which these low-performance schools are located
14 shall give written notice to all parents who reside within a
15 school district that:

16 (1) students enrolled in that low-performance
17 school will receive a voucher by July 1 of that year; and

18 (2) the parents of students enrolled in that
19 low-performance school will vote on or before April 31 of each
20 year to determine the future direction of the low-performance
21 school; the date, time and place of the two public hearings;
22 and the approximate value of the voucher.

23 F. In the month of February of each year, there
24 shall be at least two public hearings during which a
25 representative from each proposed entity shall be available to

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1 answer questions.

2 G. The election shall take place on or before
3 April 31. The parents of students enrolled in that low-
4 performance school shall decide whether the public school
5 becomes a public school with a new administration, a charter
6 school or a private or nonprofit entity that accepts all
7 students who were previously enrolled in the public school.
8 If there is no majority vote, two weeks after that election,
9 the parents will again vote to decide among the two choices
10 that received the greatest number of votes in the previous
11 election.

12 H. The election shall be conducted on low-
13 performance school property pursuant to rules determined by
14 the department of education and take place with at least one
15 representative from each proposed entity and three parents
16 present to monitor the election. The department of education
17 shall provide the funding and staff necessary to conduct the
18 election.

19 I. Parents who are dissatisfied with the outcome
20 of the election may choose to use their vouchers at any public
21 or private school in the state or to rent space at the school
22 building to start their own school.

23 J. The school district shall retain ownership of
24 the low-performance school building, but the building shall be
25 available for lease at a fair market value. The school

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1 district and the new entity shall each select an appraiser and
2 submit a bid for the lease. The amount of the lease shall be
3 the price agreed upon by both parties. The rental fees shall
4 be used to maintain or remodel the building.

5 K. Standardized testing of each child enrolled in
6 the new school shall occur every year at each grade level and
7 will be published in the local newspaper. The standardized
8 test administered shall be either the California test of basic
9 skills or the Iowa test.

10 L. If a group of parents decides to establish its
11 own school because it is dissatisfied with the outcome, it may
12 enter into a leasing contract with the new school to rent
13 available space.

14 M. Once a new school is established, it may apply
15 for accreditation to the department of education.

16 N. After three years, the school must show
17 scholastic improvement of its students' standardized test
18 scores of at least twenty percent from the test scores
19 gathered in the year the school was established. The
20 standardized test scores of students who attend the school
21 less than half of the school year do not have to be included
22 in this report. If there is not an improvement in test
23 scores, then the parents shall be provided an opportunity to
24 vote again pursuant to this section.

25 O. Employees of a private school or nonprofit

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1 entity shall not be considered employees of the school
2 district. "

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

5 "[NEW MATERIAL] VOUCHER NOTES. --

6 A. The value of the voucher note shall be equal to
7 the amount of money generated by the student through the state
8 equalization guarantee distribution provided pursuant to the
9 Public School Finance Act and a proportionate per student
10 amount for transportation expenses if the student had attended
11 a public school in his school attendance zone, excluding any
12 size or training and experience adjustment for the school
13 district or the public school. The value of the voucher shall
14 also include a proportionate allocation for the local school
15 district's at-risk and special education funding. The
16 department of education shall calculate the value of a
17 student's voucher note using the state equalization guarantee
18 distribution formula.

19 B. Within fifteen days after receiving a voucher
20 note, a private school shall certify enrollment of the student
21 named on the voucher note.

22 C. A private school or school district shall
23 redeem the value of the voucher note from the department of
24 education on the first day of each month in the following
25 installments:

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1 (1) fifty percent of the value determined in
2 Subsection A of this section in September;

3 (2) twenty-five percent of the value
4 determined in Subsection A of this section in November; and

5 (3) twenty-five percent of the value
6 determined in Subsection A of this section in February.

7 D. If a private school disenrolls a student during
8 the school year or if the student is absent for ten
9 consecutive days without explanation from his parent or legal
10 guardian, the private school shall notify the department of
11 education and the voucher redemption shall cease.

12 E. If a parent or legal guardian disenrolls a
13 student from a private school and enrolls the student in
14 another private school or in a public school during the school
15 year, the parent shall notify the department of education.
16 Upon receipt of proof of enrollment in another private school,
17 the remaining voucher note installments shall be made to the
18 new private school. Upon proof of enrollment in a public
19 school, the remaining redemption installments shall be made to
20 the school district in which the public school is located."

21 Section 5. Section 22A-4 NMSA 1978 (being Laws 1993,
22 Chapter 227, Section 4) is amended to read:

23 "22A-4. CHARTER SCHOOLS AUTHORIZED. --

24 A. The state board may authorize any school within
25 [~~local~~] a school [~~districts~~] district to become a charter

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1 school; provided that a charter school authorized pursuant to
2 the Vote for Education Act shall be authorized for three
3 years.

4 B. The state board may authorize the existence of
5 a charter school for a period not to exceed five years. At
6 the end of five years, a charter school may reapply to the
7 state board to continue operation of the charter school.

8 C. The state board shall not authorize the
9 existence of more than five charter schools in the state
10 except for any additional charter school authorized pursuant
11 to the Vote for Education Act."

12 Section 6. Section 22-10-11 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 113, as amended) is amended to read:

14 "22-10-11. EMPLOYMENT CONTRACTS-- DURATION. --

15 A. All employment contracts between local school
16 boards and certified school personnel and between governing
17 authorities of state agencies and certified school instructors
18 shall be in writing on forms approved by the state board.
19 These forms shall contain and specify the term of service, the
20 salary to be paid, the method of payment, the causes for
21 termination of the contract and other provisions required by
22 the regulations of the state board.

23 B. All employment contracts between local school
24 boards and certified school personnel and between governing
25 authorities of state agencies and certified school instructors

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1 shall be for a period of one school year except:

2 (1) contracts for less than one school year
3 are permitted to fill personnel vacancies which occur during
4 the school year;

5 (2) contracts for the remainder of a school
6 year are permitted to staff programs when the availability of
7 funds for the programs is not known until after the beginning
8 of the school year; and

9 (3) contracts for less than one school year
10 are permitted to staff summer school programs and to staff
11 federally funded programs in which the federally approved
12 programs are specified to be conducted for less than one
13 school year

14 [~~(4) contracts not to exceed two years are~~
15 ~~permitted for certified school administrators in public~~
16 ~~schools who are engaged in administrative functions for more~~
17 ~~than one-half of their employment time; and~~

18 ~~(5) contracts not to exceed three years are~~
19 ~~permitted at the discretion of the local school board for~~
20 ~~certified school instructors in public schools who have been~~
21 ~~employed in the school district for three consecutive school~~
22 ~~years].~~

23 C. Persons employed under contracts for periods of
24 less than one school year as provided in Paragraphs (1) and
25 (2) of Subsection B of this section shall be accorded all the

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1 duties, rights and privileges of the Certified School
2 Personnel Act.

3 D. In determination of eligibility for
4 unemployment compensation rights and benefits for certified
5 school instructors where those rights and benefits are claimed
6 to arise from the employment relationship between governing
7 authorities of state agencies or local school boards and
8 certified school instructors, that period of a year not
9 covered by a school year shall not be considered an
10 unemployment period.

11 E. Except as provided in Section 22-10-12 NMSA
12 1978, a person employed by contract pursuant to this section
13 has no legitimate objective expectancy of reemployment, and no
14 contract entered into pursuant to this section shall be
15 construed as an implied promise of continued employment
16 pursuant to a subsequent contract. "

17 Section 7. Section 22-12-5 NMSA 1978 (being Laws 1967,
18 Chapter 16, Section 172, as amended) is amended to read:

19 "22-1.-5. SCHOOL ATTENDANCE. --

20 A. Local school boards [~~may~~] shall admit school-
21 age persons who do not live within the school district to the
22 public schools within the school district [~~when there are~~
23 ~~sufficient school accommodations to provide for them~~].

24 B. Local school boards [~~may~~] shall permit school-
25 age persons to transfer to a school outside the child's

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1 attendance zone but within the school district [~~when there are~~
2 ~~sufficient school accommodations to provide for them~~].

3 C. Local school boards may charge a tuition fee
4 for the right to attend public school within the school
5 district only to those school-age persons who do not live
6 within the state. The tuition fee shall not exceed the amount
7 generated by the public school fund for a school-age person
8 similarly situated within the school district for the current
9 school year.

10 D. When the parent or guardian of a student not
11 living in the state pays an ad valorem property tax for school
12 purposes within the district, the amount of the tuition
13 payable for the school year shall be reduced by the district
14 average ad valorem tax per pupil as determined by the ad
15 valorem tax credit utilized in calculating state equalization
16 guarantee distribution. "