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SENATE BILL 373

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Mark Boitano

AN ACT

**RELATING TO EDUCATION; AUTHORIZING LOCAL OPTION SCHOOL
ELECTIONS ON THE BALLOT QUESTION OF WHETHER TO IMPLEMENT SITE-
BASED DECISION-MAKING BY TRANSFERRING GOVERNANCE DUTIES AND
POWERS, INCLUDING DECISION-MAKING AUTHORITY, FROM LOCAL SCHOOL
BOARDS AND DISTRICT ADMINISTRATIONS TO SCHOOL SITES;
ESTABLISHING REGIONAL SERVICE CENTERS TO PROVIDE CERTAIN SCHOOL
DISTRICT FUNCTIONS; CONVERTING SOME REGIONAL EDUCATION
COOPERATIVES TO REGIONAL SERVICE CENTERS; CREATING THE
EDUCATION REGULATION REVIEW TASK FORCE; AMENDING, REPEALING AND
ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING AN
APPROPRIATION.**

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

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1 Section 1. A new section of the Election Code is enacted
2 to read:

3 "[NEW MATERIAL] SHORT TITLE.--Sections 1 through 9 of this
4 act may be cited as the "Local Option School Election Act". "

5 Section 2. A new section of the Election Code is enacted
6 to read:

7 "[NEW MATERIAL] PURPOSE.--The purpose of the Local Option
8 School Election Act is to provide procedures for registered
9 voters of a school district to vote on whether to implement
10 site-based decision-making by transferring governance duties
11 and powers, including decision-making authority for school
12 budgets, human resources and curriculum, from local school
13 boards and district administrations to principals, parents and
14 teachers at school sites within the district in order to
15 maximize local control and autonomy. "

16 Section 3. A new section of the Election Code is enacted
17 to read:

18 "[NEW MATERIAL] DEFINITIONS.--As used in the Local Option
19 School Election Act:

20 A. "ballot question" means the question of whether
21 to implement site-based decision-making provided in Subsection
22 B of Section 9 of the Local Option School Election Act to be
23 presented to the registered voters of a school district at a
24 regular school district election;

25 B. "canvasser" means a registered voter who

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circulates a petition and collects signatures;

C. "date of closure" means the date the proper filing officer receives and stamps a completed petition calling for a local option school election;

D. "date of initiation" means the date the proper filing officer stamps the face sheet of a petition, initiating the local option school election procedure;

E. "face sheet" means the first page of a petition that contains the information provided in Subsections C and D of Section 4 of the Local Option School Election Act;

F. "local option school election" means the election held with a regular school district election on the ballot question of whether to implement site-based decision-making;

G. "petition" means a document consisting of one completed face sheet, or exact duplicate thereof, and as many subsequent pages as are necessary for signatures;

H. "petitioner" means a person, group or organization initiating a petition; and

I. "proper filing officer" means the county clerk or, in the case of a multicounty school district, the clerk of the county in which the administrative office of the school district is located."

Section 4. A new section of the Election Code is enacted to read:

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"[NEW MATERIAL] LOCAL OPTION SCHOOL ELECTION PETITION. --

A. A local option school election petition shall be on eight and one-half inch by fourteen inch paper.

B. Information written on a petition shall be in compliance with the federal Voting Rights Act of 1965, as amended.

C. The face sheet of the petition shall contain the following:

- (1) a space for the date of initiation;
- (2) a space for the name of the person, group or organization initiating the petition; and
- (3) a notice stating "Signatures are valid for a maximum of one hundred days from date of initiation."

D. The remaining portion of a face sheet shall be substantially in the following form:
"I the undersigned, a registered voter in the county of, New Mexico, and a resident of theschool district, hereby petition for a local option school election on the question of whether to implement site-based decision-making by transferring governance duties and powers, including decision-making authority for school budgets, human resources and curriculum, from local school boards and district administrations to principals, parents and teachers at school sites within the district in order to maximize local control and autonomy.

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1 1.....
2 Usual signature Name printed Address as City Date
3 as registered registered

4 2.....".
5 Usual signature Name printed Address as City Date
6 as registered registered

7 E. The first page of the circulated petition shall
8 be one completed face sheet or duplicate thereof.

9 F. Each subsequent page of the petition following
10 the face sheet shall have approximately twenty-five lines,
11 numbered one to twenty-five, and shall be substantially in the
12 form as provided in Subsection D of this section.

13 G. The petition for a local option school election
14 shall be received by the proper filing officer no later than
15 5:00 p.m. sixty days prior to the regular school district
16 election."

17 Section 5. A new section of the Election Code is enacted
18 to read:

19 "[NEW MATERIAL] AFFIDAVIT WITH PETITION--INVALIDATION.--

20 A. When submitted to the proper filing officer, a
21 petition shall have attached to it a notarized affidavit signed
22 by the canvasser, stating that the canvasser is a registered
23 voter of the county and school district in which he circulated
24 the petition; that the canvasser circulated the petition and
25 witnessed each signer write his signature; and other

1 information recorded on the petition.

2 B. According to the best information and belief,
3 the canvasser shall ensure that:

4 (1) each signature contained on the petition
5 is the signature of the person whose name it purports to be;

6 (2) each signature contained on the petition
7 was obtained on or after the date of initiation;

8 (3) each signer of the petition is a
9 registered voter of the county and school district listed on
10 the petition; and

11 (4) each signer of the petition had an
12 opportunity to read the information on the completed face sheet
13 or an exact duplicate thereof.

14 C. A knowingly false statement made in the
15 affidavit described in Subsection A of this section is grounds
16 to invalidate the petition. "

17 Section 6. A new section of the Election Code is enacted
18 to read:

19 " NEW MATERIAL PETITIONER--DUTIES. --

20 A. The petitioner shall obtain a face sheet form
21 and a subsequent page form from the proper filing officer, or
22 assemble both as provided in Section 4 of the Local Option
23 School Election Act.

24 B. The petitioner shall complete the name of the
25 person, group or organization initiating the petition.

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1 C. The petitioner shall submit the completed face
2 sheet to the proper filing officer for affixing the date of
3 initiation.

4 D. The petitioner shall duplicate the completed
5 face sheet after the date of initiation is affixed.

6 E. The petitioner shall file all of the petitions
7 collected for a local option school election with the proper
8 filing officer, together and at one time, within one hundred
9 calendar days from the date of initiation. "

10 Section 7. A new section of the Election Code is enacted
11 to read:

12 "[NEW MATERIAL] LOCAL OPTION SCHOOL ELECTION PETITION
13 SIGNATURES. --

14 A. A signer of a petition shall sign only one
15 petition.

16 B. A signature may not be signed on the petition
17 prior to the date of initiation.

18 C. A signature on the petition is valid for a
19 maximum of one hundred calendar days from the date of
20 initiation.

21 D. A signature shall not be counted unless the
22 entire line that the signature is on is completed in full and
23 is in the form prescribed by the Local Option School Election
24 Act.

25 E. A signature shall be counted on the petition

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1 unless there is evidence presented that the person signing:

2 (1) is not a registered voter of the county
3 and school district listed on the face sheet of the petition;

4 (2) has signed more than one petition; or

5 (3) is not the person whose name appears on
6 the petition.

7 F. The minimum number of verified signatures
8 required to validate a petition is equal to one percent of the
9 total number of registered voters in the school district."

10 Section 8. A new section of the Election Code is enacted
11 to read:

12 "[NEW MATERIAL] PROPER FILING OFFICER-- DUTIES-- MANDAMUS. --

13 A. The proper filing officer shall:

14 (1) provide standard face sheet forms that
15 include a place for the mailing address of the petitioner,
16 standard subsequent page forms and standard affidavit forms to
17 the general public upon request;

18 (2) affix the date of initiation to a
19 completed face sheet; and

20 (3) keep one copy of the completed face sheet
21 on file.

22 B. Upon receipt of a completed petition, the proper
23 filing officer shall stamp the petition with the date of
24 closure.

25 C. Within ten working days from the date of

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1 closure, the proper filing officer shall verify the signatures
2 on the completed petition.

3 D. Within five working days of verifying the
4 signatures on the completed petition, the proper filing officer
5 shall determine whether the number of verified signatures on
6 the petition meets the minimum number of verified signatures
7 required.

8 E. If the proper filing officer determines that the
9 minimum number of verified signatures on the completed petition
10 has been submitted, he shall validate the petition and:

11 (1) notify the petitioner at the mailing
12 address listed on the face sheet by registered mail, return
13 receipt requested, within three working days after making that
14 determination; and

15 (2) initiate the procedures to place the
16 ballot question on the ballot for the next regular school
17 district election.

18 F. If the proper filing officer determines that the
19 minimum number of verified signatures has not been submitted on
20 a completed petition, he shall notify the petitioner at the
21 mailing address listed on the face sheet by registered mail,
22 return receipt requested, within three working days after
23 making that determination. "

24 Section 9. A new section of the Election Code is enacted
25 to read:

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1 "[NEW MATERIAL] LOCAL OPTION SCHOOL ELECTION-- BALLOT
2 QUESTION-- RESUBMISSION OF BALLOT QUESTION. --

3 A. The ballot question shall be submitted to the
4 registered voters in conjunction with a regular school district
5 election. Conduct of the election shall be as prescribed in the
6 School Election Law for regular school district elections.

7 B. The ballot question to be submitted to the
8 registered voters of a school district shall be submitted in
9 substantially the following form:

10 "SHALL SITE-BASED DECISION-MAKING BE IMPLEMENTED BY
11 TRANSFERRING GOVERNANCE DUTIES AND POWERS, INCLUDING DECISION-
12 MAKING AUTHORITY FOR SCHOOL BUDGETS, HUMAN RESOURCES AND
13 CURRICULUM, FROM THE (SPECIFIC NAME OF THE SCHOOL BOARD) SCHOOL
14 BOARD AND SCHOOL DISTRICT ADMINISTRATION TO PRINCIPALS, PARENTS
15 AND TEACHERS AT SCHOOL SITES WITHIN THE DISTRICT IN ORDER TO
16 MAXIMIZE LOCAL CONTROL AND AUTONOMY?".

17 C. The resolution required to be published as
18 notice of the election pursuant to Section 1-22-4 NMSA 1978
19 shall include the ballot question as provided in Subsection B
20 of this section.

21 D. If a majority of the registered voters voting on
22 the ballot question votes in the affirmative to implement site-
23 based decision-making, the governance duties and powers,
24 including decision-making authority for school budgets, human
25 resources and curriculum, shall be transferred to the school

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1 sites within the district effective July 1 of the year
2 following the vote on the ballot question; effective that same
3 date, the schools within the district shall be governed in
4 accordance with the Site-Based Management Schools Act and the
5 Regional Service Center Act.

6 E. The certification of the results of a local
7 option school election shall be made in accordance with the
8 School Election Law, and a copy of the certificate of results
9 shall be mailed immediately to the state superintendent.

10 F. An application to contest, recount or recheck
11 the results of the local option school election may be filed by
12 a person who lawfully voted in the election, and service of the
13 application shall be made upon the proper filing officer in
14 accordance with the School Election Law and the Election Code.

15 G. If a majority of the registered voters of a
16 school district votes to reject the ballot question, the next
17 local option school election may be held no sooner than the
18 regular school district election four years after the election
19 in which the registered voters rejected the ballot question."

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

22 "[NEW MATERIAL] SHORT TITLE. -- Sections 10 through 19 of
23 this act may be cited as the "Site-Based Management Schools
24 Act". "

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

2 "[NEW MATERIAL] PURPOSE. -- The purpose of the Site-Based
3 Management Schools Act is to provide a governance system for
4 public schools in those school districts in which the
5 registered voters have voted to implement site-based
6 decision-making. "

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

9 "[NEW MATERIAL] DEFINITIONS. -- As used in the Site-Based
10 Management Schools Act:

11 A. "principal" means the principal of a site-based
12 school;

13 B. "school council" means the governing body of a
14 site-based school;

15 C. "site-based school" means a public school
16 governed by a school council implementing site-based decision-
17 making pursuant to the provisions of the Site-Based Management
18 Schools Act; and

19 D. "teacher" means a teacher employed at a site-
20 based school. "

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

23 "[NEW MATERIAL] SITE-BASED SCHOOLS- - DUTIES- - POWERS- -
24 OPERATION. - -

25 A. A site-based school shall annually develop a

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1 plan for student achievement that shall be submitted to the
2 department of education and shall be made available at the
3 school for public inspection. The plan shall include:

4 (1) a mission statement for the site-based
5 school;

6 (2) the plan of the site-based school relating
7 to meeting performance standards, content standards and
8 benchmarks and a method of measuring student achievement;

9 (3) a description of the ways in which the
10 site-based school's education program will meet student needs,
11 including the needs of its at-risk students;

12 (4) a financial plan and evidence that the
13 plan is economically sound and complies with applicable federal
14 and state laws relating to fiscal procedures; and

15 (5) the employment and student discipline
16 policies of the site-based school.

17 B. A site-based school shall:

18 (1) be subject to all federal and state laws
19 and constitutional provisions prohibiting discrimination on the
20 basis of disability, race, creed, color, gender, national
21 origin, religion, ancestry or need for special education
22 services;

23 (2) be accredited by the department of
24 education and accountable to the department for purposes of
25 ensuring compliance with applicable laws and rules;

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(3) be subject to the educational standards set for all public schools;

(4) be responsible for the accountability report required by Section 22-1-6 NMSA 1978 to ensure that relevant data is provided annually to parents, students, educators, policymakers, legislators, the governor and business and economic development organizations;

(5) be a nonsectarian and nonreligious public school and shall not charge tuition or have admission requirements;

(6) comply with all state and federal health and safety requirements applicable to public schools;

(7) participate in the public school insurance authority;

(8) be administered and governed by a school council in accordance with the law;

(9) contract with a regional service center for payroll, accounting and food services and for the transportation of students;

(10) submit to an annual financial audit to be conducted in a manner determined by the state superintendent; and

(11) be responsible for its operation, including contracting for services and human resources.

C. A site-based school may:

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1 (1) negotiate or contract with a regional
2 service center or other entity for the provision of a service
3 or activity necessary for the site-based school to carry out
4 its education program; and

5 (2) acquire and dispose of property, other
6 than real property, belonging to the site-based school.

7 D. A site-based school shall not be subject to the
8 state board's requirements relating to individual class load
9 and teaching load, length of the school day, staffing patterns,
10 subject areas and the purchase of instructional material."

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

13 "[NEW MATERIAL] SCHOOL COUNCIL--ESTABLISHMENT--
14 MEMBERSHIP--TERMS--ELECTIONS--MANDATORY TRAINING.--

15 A. A site-based school shall establish its
16 governing body known as a "school council".

17 B. The membership of a school council shall consist
18 of the principal, two teachers employed at the site-based
19 school, two parents, each of whom has at least one child
20 enrolled in the site-based school, and one member of the local
21 community who is a registered voter of the school district.
22 The teacher representatives shall be elected by a majority vote
23 of the teaching staff of the site-based school. The parent
24 representatives shall be elected by a majority vote of the
25 school's parent organization, or, if there is no parent

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1 organization, by another method determined by the principal.
2 If there are not enough parent representatives to serve on the
3 school council, a member of the local community may serve in
4 the place of a parent; provided no more than two members of the
5 community shall serve at one time. Any community
6 representative shall be elected by a majority vote of the
7 parents whose children are enrolled in the site-based school
8 and the teachers who are employed at the site-based school.

9 C. The parent, teacher and community
10 representatives shall serve staggered two-year terms, except
11 for the first year when one parent, one teacher and the
12 community representative shall each serve a one-year term.
13 Thereafter, all parent, teacher and community representative
14 terms shall be for two years. A term shall begin on July 1 and
15 end on June 30.

16 D. Elections for membership on the school council
17 shall be held in May. Notice of the election and candidate
18 nominations shall be given to all interested parties, as
19 determined by the principal, in April prior to the election.

20 E. In the event of a vacancy on the school council,
21 the principal shall call for an election at an appropriate time
22 and the vacancy shall be filled in the same manner as the
23 vacant seat was originally filled. The member filling the
24 vacancy shall serve the remainder of the unexpired term.

25 F. Members of a school council shall attend

1 training courses developed and provided by the school
2 district's regional service center. Attendance at the training
3 shall be mandatory, and the introductory portion of the
4 training shall be completed within sixty days of the election
5 of a member of the school council. The introductory training
6 courses shall include information in the areas of state and
7 federal laws and rules applicable to public education; fiscal
8 management, including preparing a budget; the School Personnel
9 Act; the Procurement Code; and team building."

10 Section 15. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] SCHOOL COUNCIL-- DUTIES-- POWERS. --

13 A. A school council shall:

14 (1) employ a principal for the site-based
15 school, who shall serve at the pleasure of the school council,
16 and fix his salary;

17 (2) delegate administrative and supervisory
18 functions of the site-based school to the principal;

19 (3) supervise and control its site-based
20 school and all property, other than real property, belonging to
21 or in the possession of the site-based school;

22 (4) subject to the provisions of law and upon
23 the recommendation of the principal, approve or disapprove the
24 employment, termination or discharge of all school employees
25 and certified school personnel of the site-based school;

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1 (5) upon the recommendation of the principal,
2 approve the budget of the site-based school and submit the
3 budget to the department of education in accordance with
4 Section 22-8-6 NMSA 1978; and

5 (6) provide for the repair and maintenance of
6 all property, other than real property, belonging to the site-
7 based school.

8 B. A school council may:

9 (1) sue and be sued; and

10 (2) accept or reject a charitable gift, grant,
11 devise or bequest. A gift, grant, devise or bequest accepted
12 shall be an asset of the site-based school.

13 C. A student who is suspended or expelled from a
14 site-based school shall be deemed suspended or expelled only
15 from that site-based school and not from other site-based
16 schools within the school district boundaries in which the
17 student resides. "

18 Section 16. A new section of the Public School Code is
19 enacted to read:

20 " [NEW MATERIAL] SITE-BASED SCHOOLS--EMPLOYMENT. --

21 Notwithstanding the provisions of Section 22-5-4 NMSA 1978, a
22 site-based school shall hire its own employees. The provisions
23 of the School Personnel Act shall apply to the employees of
24 site-based schools. "

25 Section 17. A new section of the Public School Code is
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enacted to read:

"[NEW MATERIAL] SITE-BASED SCHOOLS ENROLLMENT PROCEDURES. -

A. A site-based school shall give enrollment preference to a student who is enrolled in the public school at the time it is converted to a site-based school and to siblings of students enrolled in the site-based school. A site-based school may enroll all other students on a first-come, first-served basis or, if the total number of applicants exceeds the number of spaces available at the site-based school, through a lottery selection process.

B. In the subsequent years of its operation, a site-based school shall give enrollment preference to:

(1) students who have been enrolled in the site-based school and remain enrolled through subsequent grades; and

(2) siblings of students already enrolled in the site-based school."

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

"[NEW MATERIAL] SITE-BASED SCHOOL FINANCING. --

A. The amount of funding allocated to a site-based school shall be one hundred percent of the school-generated program cost.

B. That portion of money from state or federal

1 programs generated by students enrolled in a site-based school
2 shall be allocated to the site-based schools serving students
3 eligible for that aid."

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

6 "[NEW MATERIAL] LOCAL SCHOOL BOARD-- POWERS-- DUTIES--
7 STAFF.--

8 A. In school districts governed pursuant to the
9 Site-Based Management Schools Act, the powers and duties of the
10 local school board shall be limited to:

11 (1) issuing general obligation bonds of the
12 school district;

13 (2) acquiring and disposing of real property;

14 (3) acquiring property by eminent domain
15 pursuant to the procedures provided in the Eminent Domain Code;

16 (4) providing for the repair and maintenance
17 of all real property belonging to the district; and

18 (5) setting school bus routes for the
19 transportation of students.

20 B. By July 1 of the year following the regular
21 school district election in which the registered voters of a
22 school district vote affirmatively to implement site-based
23 decision-making, the local school board of the school district
24 shall provide for the disposition, sale, lease or transfer of
25 money, records, furniture, equipment and other property, other

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1 than real property, of the district. Property needed for use
2 by a site-based school within the school district shall be
3 transferred to the site-based school. The proceeds from the
4 sale of property, other than real property, shall be
5 distributed to the site-based schools in the district from
6 which the property originated on a pro-rata basis. "

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

9 "[NEW MATERIAL] SHORT TITLE. --Sections 20 through 24 of
10 this act may be cited as the "Regional Service Center Act". "

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

13 "[NEW MATERIAL] PURPOSE. --The purpose of the Regional
14 Service Center Act is to centralize, at a regional level,
15 functions of school districts that may be offered more
16 efficiently, economically and effectively by a single entity. "

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

19 "[NEW MATERIAL] DEFINITIONS. --As used in the Regional
20 Service Center Act:

- 21 A. "coordinating council" means the members of an
22 advisory council of a service center;
- 23 B. "school council" means the governing body of a
24 site-based school;
- 25 C. "service center" means a regional service

1 center, established by the state superintendent, that provides
2 support, including technical, administrative and training
3 services, to school districts and site-based schools within its
4 region;

5 D. "service center director" means the director of
6 a service center; and

7 E. "site-based school" means a public school
8 governed by a school council implementing site-based decision-
9 making pursuant to the provisions of the Site-Based Management
10 Schools Act. "

11 Section 23. A new section of the Public School Code is
12 enacted to read:

13 "[NEW MATERIAL] REGIONAL SERVICE CENTERS CREATED--
14 COORDINATING COUNCIL CREATED-- DIRECTOR. --

15 A. The state superintendent shall establish, by
16 creating new service centers or by converting regional
17 education cooperatives, five "regional service centers" to
18 provide support services designed to help school districts and
19 site-based schools improve their performance and operate more
20 efficiently and economically. There shall be only one service
21 center in each of five regions. The state superintendent shall
22 determine the regions and sites for locating the service
23 centers by June 30, 2002; provided that of the five service
24 centers, one service center shall be created in the northwest
25 region of the state and two existing regional education

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1 cooperatives shall be converted into service centers. The
2 state superintendent, in consultation with local school
3 districts and other interested parties, shall determine the
4 service region of each service center. A service center shall
5 begin the start-up of its operations on July 1, 2002 and shall
6 be fully operational by July 1, 2003. The state superintendent
7 may change the regional boundaries of the service centers as he
8 deems necessary.

9 B. The state superintendent shall appoint a
10 "service center director" for each service center. The service
11 center director shall hold an advanced degree.

12 C. The service center director, in consultation
13 with a coordinating council, shall adopt a budget and
14 administrative guidelines as necessary to carry out the
15 purposes of the service center.

16 D. The service center director shall appoint such
17 professional, technical and clerical support as necessary to
18 carry out the powers and duties of the service center.

19 E. The state superintendent shall establish an
20 advisory coordinating council made up of the superintendents
21 from each school district in the region and, if the region
22 contains a district consisting of site-based schools, a
23 principal from each such district. The principal
24 representative from a district consisting of site-based schools
25 shall be elected by a majority vote of all of the principals in

1 the district. The coordinating council shall advise the
2 service center director on services to be provided by the
3 service center and on other matters as requested by the service
4 center director.

5 F. The coordinating council shall meet annually to
6 evaluate and review how well the service center is satisfying
7 the needs of the school districts and site-based schools; to
8 discuss new program development; and to make recommendations on
9 services to be provided. The coordinating council may meet
10 more often as requested by the service center director or the
11 state superintendent."

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

14 "[NEW MATERIAL] SERVICE CENTERS-- POWERS AND DUTIES--
15 TRAINING COURSES. --

16 A. A service center shall provide training,
17 administrative services and technical support to school
18 districts and site-based schools within its region. A service
19 center shall contract with site-based schools to develop and
20 conduct training courses, including an introductory training
21 course, for members of school councils. The introductory
22 training course shall include information in the following
23 areas:

24 (1) state board rules and state and federal
25 laws applicable to public education;

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- 1 (2) fiscal management, including financial
- 2 accountability, planning, budgeting and accounting;
- 3 (3) human resource management, including the
- 4 School Personnel Act;
- 5 (4) contracting, including rules pertaining to
- 6 the Procurement Code; and
- 7 (5) team-building skills.

8 B. A service center shall provide the following
9 services for purchase by school districts and site-based
10 schools within its region:

- 11 (1) payroll, accounting and finance functions,
- 12 including handling federal flow-through funds;
- 13 (2) administrative services, including serving
- 14 as central purchasing agent and providing centralized
- 15 purchasing of instructional materials;
- 16 (3) special education and other educational
- 17 services;
- 18 (4) grant research and writing services;
- 19 (5) technology support services;
- 20 (6) legal services;
- 21 (7) transportation services;
- 22 (8) food service;
- 23 (9) background checks as provided in Section
- 24 22-10-3.3 NMSA 1978; and
- 25 (10) other programs, goods or services

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1 requested by the coordinating council within the constraints of
2 budgetary resources.

3 C. A service center shall be an archive for resumes
4 of persons seeking positions in schools across the state,
5 including principals and teachers.

6 D. A service center may:
7 (1) sue and be sued; and
8 (2) accept or reject a charitable gift, grant,
9 devise or bequest. A gift, grant, devise or bequest accepted
10 shall be an asset of the service center to which it is
11 accepted. "

12 Section 25. Section 22-1-2 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 2, as amended) is amended to read:

14 "22-1-2. DEFINITIONS.--As used in the Public School Code:

15 A. "state board" means the state board of
16 education;

17 B. "state superintendent" means the superintendent
18 of public instruction;

19 C. "department of education" means the state
20 department of public education;

21 D. "certified school instructor" means ~~any~~ a
22 person holding a valid certificate authorizing the person to
23 teach, supervise an instructional program, counsel or provide
24 special instructional services in the public schools of the
25 state;

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1 E. "certified school administrator" means [~~any~~] a
2 person holding a valid certificate authorizing the person to
3 administer in the public schools of the state;

4 F. "certified school employee" or "certified school
5 personnel" means [~~any~~] an employee who is either a certified
6 school instructor or a certified school administrator or both;

7 G. "non-certified school employee" means [~~any~~] an
8 employee who is not a certified school employee;

9 H. "certificate" means a certificate issued by the
10 state board authorizing a person to teach, supervise an
11 instructional program, counsel, provide special instructional
12 services or administer in the public schools of the state;

13 I. "chief" or "director" means the state
14 superintendent or his designee unless the context clearly
15 indicates otherwise;

16 J. "private school" means a school offering on-site
17 programs of instruction not under the control, supervision or
18 management of a local school board, exclusive of a site-based
19 school or home instruction offered by the parent, guardian or
20 one having custody of the student;

21 K. "school district" means an area of land
22 established as a political subdivision of the state for the
23 administration of public schools and segregated geographically
24 for taxation and bonding purposes;

25 L. "local school board" means the governing body of

1 a school district except for school districts governed pursuant
2 to the Site-Based Management Schools Act;

3 M "public school" means that part of a school
4 district that is a single attendance center where instruction
5 is offered by a certified school instructor or a group of
6 certified school instructors and is discernible as a building
7 or group of buildings generally recognized as either an
8 elementary, secondary, junior high or high school or any
9 combination thereof;

10 N. "school year" means the total number of teaching
11 days offered by public schools in a school district during a
12 period of twelve consecutive months;

13 O. "consolidation" means the combination of part or
14 all of the geographical area of an existing school district
15 with part or all of the geographical area of one or more
16 contiguous existing school districts;

17 P. "consolidated school district" means a school
18 district created by order of the state board by combining part
19 or all of the geographical area of an existing school district
20 with part or all of the geographical area of one or more
21 contiguous existing school districts;

22 Q. "state institution" means the New Mexico
23 military institute, the New Mexico school for the visually
24 handicapped, the New Mexico school for the deaf, the New Mexico
25 boys' school, the New Mexico youth diagnostic and development

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1 center, the Los Lunas medical center, the Fort Stanton
2 hospital, the Las Vegas medical center or the Carrie Tingley
3 crippled children's hospital;

4 R. "state educational institution" means an
5 institution enumerated in Article 12, Section 11 of the
6 constitution of New Mexico;

7 S. "forty-day report" means the report of qualified
8 student membership of each school district and of those
9 eligible to be qualified students but enrolled in a private
10 school or a home school for the first forty days of school;

11 T. "school" means [~~any~~] a supervised program of
12 instruction designed to educate a person in a particular place,
13 manner and subject area;

14 U. "school-age person" means [~~any~~] a person who is
15 at least five years of age prior to 12:01 a.m. on September 1
16 of the school year and who has not received a high school
17 diploma or its equivalent. A maximum age of twenty-one shall
18 be used for persons who are classified as special education
19 membership as defined in Section 22-8-2 NMSA 1978 or as
20 residents of state institutions;

21 V. "home school" means the operation by a parent,
22 guardian or other person having custody of a school-age person
23 who instructs a home study program that provides a basic
24 academic educational program, including [~~but not limited to~~]
25 reading, language arts, mathematics, social studies and

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1 science;

2 W. "school building" means a public school, an
3 administration building and related school structure or
4 facilities, including teacher housing, as may be owned,
5 acquired or constructed by the local school board and as
6 necessary to carry out the powers and duties of the local
7 school board;

8 X. "commercial advertiser" means a person who
9 advertises a product or service for profit or not for profit
10 and has a permitted advertisement; [~~and~~]

11 Y. "school bus private owner" means a person who
12 owns a school bus, other than a [~~local~~] school district, the
13 department of education, the state or any other political
14 subdivision of the state;

15 Z. "school council" means the governing body of a
16 site-based school;

17 AA. "service center" means a regional service
18 center, established by the state superintendent, that provides
19 support, including technical, administrative and training
20 services, to school districts and site-based schools within its
21 region; and

22 BB. "site-based school" means a public school
23 governed by a school council implementing site-based
24 decision-making pursuant to the provisions of the Site-Based
25 Management Schools Act. "

1 Section 26. Section 22-2-2 NMSA 1978 (being Laws 1967,
2 Chapter 16, Section 5, as amended) is amended to read:

3 "22-2-2. STATE BOARD--DUTIES.--Without limiting those
4 powers granted to the state board pursuant to Section 22-2-1
5 NMSA 1978, the state board shall perform the following duties:

6 A. properly and uniformly enforce the provisions of
7 the Public School Code;

8 B. determine policy for the operation of [aH]
9 public schools and vocational education programs in the state,
10 including vocational programs that are part of a juvenile
11 construction industries initiative for juveniles who are
12 committed to the custody of the children, youth and families
13 department;

14 C. appoint a state superintendent;

15 D. purchase and loan instructional material to
16 students pursuant to the Instructional Material Law and adopt
17 rules relating to the use and operation of instructional
18 material depositories in the instructional material
19 distribution process;

20 E. designate courses of instruction to be taught in
21 [aH] public schools in the state;

22 F. assess and evaluate [aH] state institutions and
23 those private schools that desire state accreditation;

24 G. determine the qualifications for and issue a
25 certificate to [any] a person teaching, assisting teachers,

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1 supervising an instructional program, counseling, providing
2 special instructional services or administering in public
3 schools according to law and according to a system of
4 classification adopted and published by the state board;

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

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

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

16 K. adopt rules for the administration of [a++]
17 public schools and bylaws for its own administration;

18 L. require periodic reports on forms prescribed by
19 it from [a++] public schools and attendance reports from
20 private schools;

21 M. authorize adult educational programs to be
22 conducted in schools under its jurisdiction and adopt and
23 promulgate rules governing [a++] such adult educational
24 programs;

25 N. require [any] a school under its jurisdiction

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

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

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

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

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

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1 public school activity. The state board shall have no power or
2 control over the rules or the bylaws governing the
3 administration of the internal organization of the association
4 or organization;

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

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

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

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

24 [~~W.~~] V. provide for management and other necessary
25 personnel to operate [any] a public school or school district

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

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

14 [Y.] X. submit a plan applying for funds available
15 under Public Law 94-142 and disburse these funds in the manner
16 and for the purposes specified in the plan;

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

21 [AA.] Z. develop a systemic framework for
22 professional development that provides training to ensure
23 quality teachers and principals and that improves and enhances
24 student achievement. The state board shall work with public
25 school educators, the commission on higher education and

1 institutions of higher education to establish the framework.

2 The framework shall include:

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

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

14 Section 27. Section 22-2-14 NMSA 1978 (being Laws 1978,
15 Chapter 129, Section 1, as amended) is amended to read:

16 "22-2-14. EDUCATION REQUIREMENTS-- ENFORCEMENT--
17 PROCEDURES.--

18 A. Money budgeted by a school district or site-
19 based school shall be spent first to attain and maintain the
20 requirements for a school district or site-based school as
21 prescribed by law and by standards and regulations as
22 prescribed by the state board. The state superintendent shall
23 give written notification to a local school board or school
24 council of [any] a failure to meet requirements by any part of
25 the school district under the control of the local school board

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1 or a school council. The notice shall specify the deficiency.
2 Instructional units or administrative functions may be
3 disapproved for such deficiencies. The state superintendent
4 shall disapprove instructional units or administrative
5 functions which he determines to be detrimental to the
6 educational process.

7 B. Within thirty days after receipt of the notice
8 of failure to meet requirements, the local school board or
9 school council shall:

10 (1) comply with the specific and attendant
11 requirements in order to remove the cause for disapproval; or

12 (2) submit plans satisfactory to the state
13 superintendent to meet requirements and remove the cause for
14 disapproval.

15 C. The state board shall suspend from authority and
16 responsibility ~~[any]~~ a local school board ~~[which]~~ or school
17 council that has had notice of disapproval and fails to comply
18 with procedures of Subsection B of this section. The state
19 superintendent shall act in lieu of the suspended local school
20 board or school council until the state board removes the
21 suspension.

22 D. To suspend a local school board or school
23 council, the state board shall deliver to the local school
24 board or school council an alternative order of suspension,
25 stating the cause for the suspension and the effective date and

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1 time the suspension will begin. The alternative order shall
2 also contain notice of a time, date and place for a public
3 hearing, prior to the beginning of suspension, to be held by
4 the state board, at which the local school board or school
5 council may appear and show cause why it should not be
6 suspended. Within five days after the hearing, the state board
7 shall make permanent, modify or withdraw the alternative order.

8 E. The state superintendent may suspend a local
9 school board or school council pending a hearing before the
10 state board when the local school board or school council has
11 been notified of disapproval and when the state superintendent
12 has sufficient reason to believe that the educational process
13 in the school district or site-based school has been severely
14 impaired or halted as a result of deficiencies so severe as to
15 warrant disapproved status before the question of suspension
16 can be presented to the state board for a hearing.

17 F. The state superintendent, while acting in lieu
18 of a suspended local school board or school council, shall
19 execute all the legal authority of the local school board or
20 school council and assume all the responsibilities of that
21 board or school council.

22 G. The provisions of this section shall be invoked
23 at any time the state superintendent finds the school district
24 or site-based school has failed to attain and maintain the
25 requirements of law or state board standards and regulations. "

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1 Section 28. Section 22-2-15 NMSA 1978 (being Laws 1978,
2 Chapter 129, Section 2, as amended) is amended to read:

3 "22-2-15. HEARINGS--SUSPENSION CONTINUANCE AND
4 DISCONTINUANCE--APPEALS. --

5 A. Within ten days after suspension, or within a
6 reasonable time as the suspended local school board or school
7 council may request, the state board shall give a hearing to
8 the local school board or school council. At this hearing, the
9 local school board or school council may appear and show cause
10 why the suspension should not be continued. The state board
11 employees who conducted evaluations upon which the suspension
12 was based shall appear and give testimony.

13 B. After the hearing, the state board shall
14 continue or discontinue the suspension of the local school
15 board or school council.

16 C. [~~Any~~] A local school board or school council
17 aggrieved by the decision of the state board may appeal to the
18 district court pursuant to the provisions of Section 39-3-1.1
19 NMSA 1978. "

20 Section 29. Section 22-8-6 NMSA 1978 (being Laws 1967,
21 Chapter 16, Section 60, as amended by Laws 1999, Chapter 281,
22 Section 21 and also by Laws 1999, Chapter 291, Section 2) is
23 amended to read:

24 "22-8-6. BUDGETS--SUBMISSION--FAILURE TO SUBMIT. --

25 A. Prior to April 15 of each year, each local

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1 school board or site-based school shall submit to the
2 department an operating budget for the school district or site-
3 based school for the ensuing fiscal year. Upon written
4 approval of the state superintendent, the date for the
5 submission of the operating budget as required by this section
6 may be extended to a later date fixed by the state
7 superintendent.

8 B. The operating budget required by this section
9 may include:

10 (1) estimates of the cost of insurance
11 policies for periods up to five years if a lower rate may be
12 obtained by purchasing insurance for the longer term; or

13 (2) estimates of the cost of contracts for the
14 transportation of students for terms extending up to four
15 years.

16 C. The operating budget required by this section
17 shall include a proposed breakdown for charter schools in the
18 school district, by individual charter school, of the
19 membership projected for each charter school, the total program
20 units generated at that charter school and approximate
21 anticipated disbursements and expenditures at each charter
22 school.

23 D. If a local school board or school council fails
24 to submit a budget pursuant to this section, the department
25 shall prepare the operating budget for the school district for

1 the ensuing fiscal year. A local school board or school
2 council shall be considered as failing to submit a budget
3 pursuant to this section if the budget submitted exceeds the
4 total projected resources of the school district or site-based
5 school or if the budget submitted does not comply with the law
6 or with rules and procedures of the department. "

7 Section 30. Section 22-10-3.3 NMSA 1978 (being Laws 1997,
8 Chapter 238, Section 1, as amended) is amended to read:

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

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

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B. Local school boards and service centers shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school, including a charter school. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board, a service center or a charter school shall not be required to submit to another background check if the department of education has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school, including a charter school, shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board or service center to obtain his federal bureau of investigation record. The applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school, including a charter school, may be required to pay for the cost of obtaining a background check. At the request of a local school board, service center or charter school, the department of education is authorized to release copies of federal bureau of investigation records that are on file with the department of education and that are not more than twelve months old. Convictions of felonies or

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

13 C. The department of education shall implement the
14 provisions of Subsection A of this section on or before July 1,
15 1998. "

16 Section 31. TEMPORARY PROVISION--TRANSFER OF REGIONAL
17 EDUCATION COOPERATIVES' APPROPRIATIONS, PROPERTY AND
18 AGREEMENTS--DISPOSITION OF REGIONAL CENTER COOPERATIVES'
19 PROPERTY. --

20 A. When the superintendent of public instruction
21 converts a regional education cooperative to a regional service
22 center, personnel, appropriations, money, records, furniture,
23 equipment and other property of the regional education
24 cooperative shall be transferred to the regional service center
25 converted from the regional education cooperative. Contractual

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1 obligations of the regional education cooperative shall become
2 contractual obligations of the regional service center.

3 B. If the superintendent of public instruction
4 creates a regional service center in a region that has a
5 regional center cooperative, the school districts that
6 participate in the regional center cooperative shall disband
7 that regional center cooperative. The school districts shall
8 provide for the disposition of money, records, furniture,
9 equipment and other property either as provided in the joint
10 powers agreement that created the regional center cooperative
11 or by transferring the property to the state department of
12 public education.

13 Section 32. TEMPORARY PROVISION-- EDUCATION REGULATION
14 REVIEW TASK FORCE CREATED.--The "education regulation review
15 task force" is created. The task force shall function from the
16 date of the appointment of its members until December 31, 2002.

17 Section 33. TEMPORARY PROVISION-- MEMBERSHIP-- VACANCIES--
18 COMPENSATION.--

19 A. The education regulation review task force shall
20 be composed of twelve members appointed as follows:

21 (1) six members shall be principals and four
22 members shall be teachers from New Mexico public schools. The
23 New Mexico legislative council shall appoint five members,
24 including three principals and two teachers, and the governor
25 shall appoint five members, including three principals and two

1 teachers; and

2 (2) there shall be one member representing the
3 state department of public education and one member
4 representing school district superintendents, both of whom
5 shall be appointed by the superintendent of public instruction.

6 B. A vacancy on the education regulation review
7 task force shall be filled by appointment and in the same
8 manner as the vacant seat was originally filled. All members
9 of the task force shall be appointed by July 31, 2001 and shall
10 represent the geographic and cultural diversity of the state.

11 C. The state department of public education shall
12 staff the education regulation review task force.

13 D. Members of the education regulation review task
14 force shall be paid pursuant to the Per Diem and Mileage Act
15 and shall receive no other perquisite, compensation or
16 allowance.

17 Section 34. TEMPORARY PROVISION-- POWERS AND DUTIES. --

18 A. The education regulation review task force shall
19 initially hold an organizational meeting to select a chairman
20 and to develop a work plan. Thereafter, the task force shall
21 meet as necessary to carry out its duties as provided in
22 Subsection B of this section.

23 B. The education regulation review task force shall
24 conduct a review of the rules and regulations governing primary
25 and secondary education in New Mexico to identify those rules

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1 and regulations that unnecessarily burden administrators and
2 teachers at the school site and that prevent administrators and
3 teachers at the school site from effectively performing their
4 roles as instructional leaders and educators.

5 C. The education regulation review task force shall
6 present its findings and recommendations no later than December
7 31, 2002 to the state board of education, the governor and the
8 legislative education study committee for further action in
9 eliminating the identified rules or regulations that are found
10 to be unnecessary and burdensome.

11 Section 35. APPROPRIATION. --Twenty thousand dollars
12 (\$20,000) is appropriated from the general fund to the state
13 department of public education for expenditure in fiscal year
14 2002 to provide per diem and mileage for the members of the
15 education regulation review task force. Any unexpended or
16 unencumbered balance remaining at the end of the fiscal year
17 2002 shall revert to the general fund.

18 Section 36. DELAYED REPEAL. --Sections 22-2B-1 through 22-
19 2B-6 NMSA 1978 (being Laws 1993, Chapter 232, Sections 1
20 through 6) are repealed effective July 1, 2003.

21 Section 37. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 2001.

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