

HOUSE BILL 257

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Linda M. Trujillo

AN ACT

RELATING TO CRANE OPERATORS; AMENDING THE HOISTING OPERATORS SAFETY ACT TO BE NAMED THE CRANE OPERATORS SAFETY ACT AND TO REFLECT UPDATED DEFINITIONS AND PRACTICES; MAKING CONFORMING AND TECHNICAL CHANGES.

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

**SECTION 1.** Section 60-15-1 NMSA 1978 (being Laws 1993, Chapter 183, Section 1, as amended) is amended to read:

"60-15-1. SHORT TITLE.--Chapter 60, Article 15 NMSA 1978 may be cited as the "[~~Hoisting~~] Crane Operators Safety Act".

**SECTION 2.** Section 60-15-2 NMSA 1978 (being Laws 1993, Chapter 183, Section 2) is amended to read:

"60-15-2. PURPOSE.--The purpose of the [~~Hoisting~~] Crane Operators Safety Act is to promote the general welfare and protect the lives and property of the people of New Mexico by

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1 requiring persons operating [~~hoisting equipment~~] cranes to be  
2 trained and licensed when employed in construction, demolition  
3 or excavation work."

4 SECTION 3. Section 60-15-3 NMSA 1978 (being Laws 1993,  
5 Chapter 183, Section 3, as amended) is amended to read:

6 "60-15-3. DEFINITIONS.--As used in the [~~Hoisting~~] Crane  
7 Operators Safety Act:

8 A. "class I [~~hoisting~~] crane operator" means [~~any~~]  
9 a person who is authorized to operate a [~~conventional crane,~~  
10 ~~tower crane or hydraulic~~] crane of any size or weight;

11 B. "class II [~~hoisting~~] crane operator" means [~~any~~]  
12 a person who is authorized to operate:

13 (1) a hydraulic crane of up to one hundred  
14 tons lifting capacity with a maximum boom length of one hundred  
15 fifty feet, regardless of mounting or means of mobility; and

16 (2) any other type or size of crane [~~or~~  
17 ~~hoisting equipment~~] under the direct supervision of a class I  
18 [~~hoisting~~] crane operator;

19 C. "class III [~~hoisting~~] crane operator" means  
20 [~~any~~] a person who is authorized to work as an apprentice,  
21 trainee or crane oiler or driver under the direct supervision  
22 of a class I or class II [~~hoisting~~] crane operator;

23 D. "council" means the [~~hoisting~~] crane operators  
24 licensure examining council;

25 E. "crane" means:

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(1) a conventional crane;

(2) a tower crane ~~[used in construction,  
demolition or excavation work];~~

(3) a hydraulic crane with over one ton  
lifting capacity;

(4) a power-operated derrick; or

(5) a mobile, carrier-mounted, track or  
crawler type power-operated hoisting machine that ~~[utilizes a  
power-operated boom capable of lateral movement by the rotation  
of the machine on the carrier. "Crane" does not include a  
crane, except as provided in Subsection M of this section]~~ is  
used to hoist, lower or horizontally and laterally move a  
suspended load by means of a winch, cable and hook but does not  
mean an excavator or forklift;

F. "department" means the regulation and licensing  
department;

G. "endorsement" means ~~[the]~~ an authorization  
stamped on a class I ~~[hoisting]~~ crane operator's license  
indicating authorization to operate a conventional crane, a  
tower crane or a hydraulic crane of any size or weight;

~~[H. "hoisting equipment" means, except as provided  
in Subsection M of this section:~~

~~(1) a tower crane;~~

~~(2) a hydraulic crane with over two tons  
lifting capacity;~~

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1                   ~~(3) a derrick crane; or~~

2                   ~~(4) a mobile cable crane;~~

3           ~~F.]~~ H. "licensee" means ~~[any]~~ a person licensed  
4 under the ~~[Hoisting]~~ Crane Operators Safety Act;

5           ~~J.]~~ I. "person" means an individual, firm,  
6 partnership, corporation, association or other organization or  
7 any combination thereof;

8           ~~K.]~~ J. "seat time" means the actual hands-on  
9 operation of a crane by a class II ~~[hoisting]~~ crane operator  
10 while under the direct supervision of a licensed class I  
11 ~~[hoisting]~~ crane operator or the actual hands-on operation of a  
12 crane by a class III ~~[hoisting]~~ crane operator while under the  
13 direct supervision of a licensed class I or II ~~[hoisting]~~ crane  
14 operator; and

15           ~~L.]~~ K. "superintendent" means the superintendent  
16 of ~~[the]~~ regulation and licensing ~~[department; and~~

17           ~~M.~~ "crane" or "hoisting equipment" ~~does not include~~  
18 ~~any crane or hoisting equipment used in construction,~~  
19 ~~demolition or excavation associated with:~~

20                   ~~(1) natural gas gather lines;~~

21                   ~~(2) interstate transmission facilities and~~  
22 ~~interstate natural gas facilities subject to the federal~~  
23 ~~Natural Gas Pipeline Safety Act of 1968 and its amendments;~~

24                   ~~(3) interstate pipeline facilities and carbon~~  
25 ~~dioxide pipeline facilities subject to the federal Hazardous~~

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1 ~~Liquid Pipeline Safety Act of 1979;~~

2 ~~(4) gas and oil pipeline facilities subject to~~  
3 ~~the Pipeline Safety Act;~~

4 ~~(5) mining, milling or smelting operations~~  
5 ~~subject to mine safety and health administration regulations or~~  
6 ~~occupational safety and health administration regulations;~~

7 ~~(6) prefabricated control rooms of natural~~  
8 ~~gas, oil or carbon dioxide pipeline transmission facilities;~~

9 ~~(7) oil and gas exploration, production or~~  
10 ~~drilling;~~

11 ~~(8) rural electric cooperative and electric,~~  
12 ~~gas and water utility operations;~~

13 ~~(9) commercial sign operations;~~

14 ~~(10) the construction or operation of~~  
15 ~~railroads; or~~

16 ~~(11) the installation and maintenance of~~  
17 ~~telephone or television cable]."~~

18 SECTION 4. Section 60-15-4 NMSA 1978 (being Laws 1993,  
19 Chapter 183, Section 4, as amended) is amended to read:

20 "60-15-4. LICENSE REQUIRED--~~[EXEMPTION]~~ EXEMPTIONS.--

21 A. No person shall operate ~~[hoisting equipment]~~ a  
22 crane in construction, demolition or excavation work ~~[when the~~  
23 ~~hoisting equipment is used to hoist or lower individuals or~~  
24 ~~material]~~ unless the person is licensed under the ~~[Hoisting]~~  
25 Crane Operators Safety Act or ~~[the operation is]~~ exempt

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1 pursuant to [~~Subsection M of Section 60-15-3 NMSA 1978~~]

2 Subsection D of this section.

3 B. Operating [~~hoisting equipment~~] a crane without a  
4 license shall be considered unlicensed operation and shall  
5 subject the person who is operating the [~~hoisting equipment~~]  
6 crane and the person's employer, or the employer's  
7 representative, [~~that allows a person not licensed under the~~  
8 ~~Hoisting Operators Safety Act to operate hoisting equipment~~] to  
9 [~~the~~] penalties as provided in [~~that act~~] the Crane Operators  
10 Safety Act.

11 C. The licensee and the licensee's employer shall  
12 be subject to applicable regulations controlling the use and  
13 operation of cranes as promulgated by the occupational safety  
14 and health administration, the mine safety and health  
15 administration or the American national standards institute.

16 D. The Crane Operators Safety Act shall not apply  
17 to the operation of a crane used in construction, demolition or  
18 excavation associated with:

- 19 (1) natural gas gather lines;
- 20 (2) interstate transmission facilities and  
21 interstate natural gas facilities subject to the federal  
22 Natural Gas Pipeline Safety Act of 1968 and its amendments;
- 23 (3) interstate pipeline facilities and carbon  
24 dioxide pipeline facilities subject to the federal Hazardous  
25 Liquid Pipeline Safety Act of 1979;

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1                   (4) gas and oil pipeline facilities subject to  
2 the Pipeline Safety Act;

3                   (5) mining, milling or smelting operations  
4 subject to mine safety and health administration regulations or  
5 occupational safety and health administration regulations;

6                   (6) prefabricated control rooms of natural  
7 gas, oil or carbon dioxide pipeline transmission facilities;

8                   (7) oil and gas exploration, production or  
9 drilling;

10                   (8) rural electric cooperative and electric,  
11 gas and water utility operations;

12                   (9) commercial sign operations;

13                   (10) the construction or operation of  
14 railroads; or

15                   (11) the installation and maintenance of  
16 telephone or television cable."

17                   SECTION 5. Section 60-15-6 NMSA 1978 (being Laws 1993,  
18 Chapter 183, Section 6) is amended to read:

19                   "60-15-6. ADMINISTRATION OF ACT.--

20                   A. The department shall enforce and administer the  
21 provisions of the [~~Hoisting~~] Crane Operators Safety Act.

22                   B. The department shall adopt rules [~~and~~  
23 ~~regulations necessary~~] to carry out the provisions of the  
24 [~~Hoisting~~] Crane Operators Safety Act and to meet the  
25 occupational safety and health administration crane

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1 certification requirements."

2 SECTION 6. Section 60-15-7 NMSA 1978 (being Laws 1993,  
3 Chapter 183, Section 7, as amended) is amended to read:

4 "60-15-7. REQUIREMENTS FOR LICENSURE.--

5 A. The department shall issue a license for a class  
6 I [~~hoisting~~] crane operator with [~~a conventional crane,~~  
7 ~~hydraulic crane or tower crane~~] an endorsement to an applicant  
8 who files a completed application, accompanied by the required  
9 fees, and who submits satisfactory evidence that the applicant:

10 (1) is at least twenty-one years of age;

11 (2) has passed a written examination as  
12 prescribed by the department or has successfully completed an  
13 employer's in-house training program approved by the council;

14 (3) has had a physical examination, including  
15 substance abuse testing, within the twelve-month period  
16 preceding the date of application, showing that the applicant  
17 is in satisfactory physical condition for performing the  
18 functions of a class I [~~hoisting~~] crane operator; and

19 (4) within the past three years, has completed  
20 at least five hundred hours of seat time in the type of  
21 [~~hoisting equipment~~] crane for which the applicant seeks a  
22 license and an endorsement and has successfully passed a  
23 practical examination administered by a council-approved  
24 examining vendor or completed an employer's in-house training  
25 course approved by the council in the type of [~~hoisting~~

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1 ~~equipment]~~ crane for which the applicant seeks a license and an  
2 endorsement.

3 B. The department shall issue a license for a class  
4 II [~~hoisting~~] crane operator to an applicant who files a  
5 completed application, accompanied by the required fees, and  
6 who submits satisfactory evidence that the applicant:

7 (1) is at least eighteen years of age;  
8 (2) has passed a written examination  
9 prescribed by the department or has successfully completed an  
10 employer's in-house training course approved by the council;

11 (3) has had a physical examination, including  
12 substance abuse testing, within the twelve-month period  
13 preceding the date of application, showing that the applicant  
14 is in satisfactory physical condition for performing the  
15 functions of a class II [~~hoisting~~] crane operator; and

16 (4) within the past three years, has completed  
17 at least five hundred hours of seat time in the actual  
18 operation of hydraulic cranes with over ten tons and up to one  
19 hundred tons lifting capacity with a maximum boom length of one  
20 hundred fifty feet, regardless of mounting or means of  
21 mobility, and has successfully passed a practical examination  
22 administered by a council-approved examining vendor or has  
23 completed an employer's in-house training course approved by  
24 the council in the type of [~~hoisting equipment]~~ crane for which  
25 the applicant seeks a license.

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1 C. A class II [~~hoisting~~] crane operator who seeks  
2 to become licensed as a class I [~~hoisting~~] crane operator shall  
3 keep a log book of the class II [~~hoisting~~] crane operator's  
4 seat time and must accumulate [~~five hundred~~] fifty hours of  
5 seat time under the direct supervision of a class I [~~hoisting~~]  
6 crane operator.

7 D. The department shall issue a license for a class  
8 III [~~hoisting~~] crane operator to an applicant who files a  
9 completed application, accompanied by the required fees, and  
10 who submits satisfactory evidence that the applicant:

11 (1) is at least eighteen years of age;

12 (2) has passed an examination prescribed by  
13 the department; and

14 (3) has had a physical examination, including  
15 substance abuse testing, within the twelve-month period  
16 preceding the date of application, showing that the applicant  
17 is in satisfactory physical condition for performing the  
18 functions of a class III [~~hoisting~~] crane operator.

19 E. A class III [~~hoisting~~] crane operator who seeks  
20 to become licensed as a class I or class II [~~hoisting~~] crane  
21 operator shall keep a log book of the class III [~~hoisting~~]  
22 crane operator's seat time within the past three years and must  
23 accumulate five hundred hours of seat time under the direct  
24 supervision of a class I or class II [~~hoisting~~] crane operator  
25 who is properly licensed in the kind of crane being operated.

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1 F. A class III [~~hoisting~~] crane operator shall not  
2 operate [~~hoisting equipment~~] a crane unless under the direct  
3 supervision of a class I or class II [~~hoisting~~] crane operator  
4 who is properly licensed in the type of [~~hoisting equipment~~]  
5 crane being operated.

6 G. The department shall recognize an in-house  
7 [~~hoisting~~] crane operator card issued to an applicant who:

8 (1) is at least eighteen years of age;

9 (2) is participating in an in-house training  
10 course approved by the council; and

11 (3) has had a physical examination, including  
12 substance abuse testing, within the twelve-month period  
13 preceding the date of application, showing that the applicant  
14 is in satisfactory physical condition for performing the  
15 functions of a [~~hoisting~~] crane operator.

16 H. A person with an in-house [~~hoisting~~] crane  
17 operator card shall only operate [~~hoisting equipment~~] a crane  
18 for the employer who provided the approved in-house training  
19 course. The employer of a person with an in-house [~~hoisting~~]  
20 crane operator card shall provide that operator with  
21 supervision and additional training by a class I or class II  
22 [~~hoisting~~] crane operator who is properly licensed in the type  
23 of [~~hoisting equipment~~] crane being operated to ensure  
24 compliance and safe operation of the [~~hoisting equipment~~] crane  
25 pursuant to the [~~Hoisting~~] Crane Operators Safety Act.

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1 I. An in-house [~~hoisting~~] crane operator card shall  
2 be valid for two years and is not subject to extension or  
3 renewal."

4 SECTION 7. Section 60-15-8 NMSA 1978 (being Laws 1993,  
5 Chapter 183, Section 8, as amended) is amended to read:

6 "60-15-8. LICENSE RENEWAL.--

7 A. A license issued pursuant to Section 60-15-7  
8 NMSA 1978 shall be valid for two years from the date of  
9 issuance.

10 B. License renewal procedures shall be prescribed  
11 by the department by rule.

12 C. Any license not renewed by the expiration date  
13 shall be considered expired, and the licensee shall not operate  
14 [~~hoisting equipment~~] a crane within the state until the license  
15 is renewed. Operating [~~hoisting equipment~~] a crane with an  
16 expired license shall be considered unlicensed operation and  
17 shall subject the person who is operating the [~~hoisting~~  
18 ~~equipment~~] crane to the penalties as provided in the [~~Hoisting~~]  
19 Crane Operators Safety Act.

20 D. The department shall adopt and promulgate rules  
21 for renewal of an expired license and may require the licensee  
22 to reapply as a new applicant."

23 SECTION 8. Section 60-15-11 NMSA 1978 (being Laws 1993,  
24 Chapter 183, Section 11, as amended) is amended to read:

25 "60-15-11. FINES--DENIAL, SUSPENSION OR REVOCATION OF  
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1 LICENSE--STOP WORK ORDERS--INJUNCTIVE PROCEEDINGS--VIOLATIONS.--

2 A. Notwithstanding any other provision of the  
3 [~~Hoisting~~] Crane Operators Safety Act, the department upon  
4 reasonable cause that a violation of the provisions of the  
5 [~~Hoisting~~] Crane Operators Safety Act or a rule adopted  
6 pursuant to that act has occurred that creates a health or  
7 safety risk for the community, which requires immediate action,  
8 may issue a stop work order. At any time after service of the  
9 order to stop work, the person may request a prompt hearing to  
10 determine whether a violation occurred. If a person fails to  
11 comply with a stop work order within twenty-four hours, the  
12 department may bring a suit for a temporary restraining order  
13 and for injunctive relief to prevent further violations.

14 B. Whenever the department possesses evidence that  
15 indicates a person has engaged in or intends to engage in an  
16 act or practice constituting a violation of the [~~Hoisting~~]  
17 Crane Operators Safety Act or a rule adopted pursuant to that  
18 act, the department may seek temporarily or permanently to  
19 restrain or to enjoin the act or practice. The department  
20 shall not be required to post a bond when seeking a temporary  
21 or permanent injunction.

22 C. Unless otherwise provided in the [~~Hoisting~~]  
23 Crane Operators Safety Act, it is a violation of that act for a  
24 person to:

- 25 (1) operate, or employ a person to operate,

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1     ~~[hoisting equipment]~~ a crane in construction, demolition or  
2     excavation work without a valid license issued pursuant to the  
3     ~~[Hoisting]~~ Crane Operators Safety Act;

4                     (2) refuse to comply with a stop work order  
5     issued by the department;

6                     (3) refuse or fail to comply with the  
7     provisions of the ~~[Hoisting]~~ Crane Operators Safety Act or a  
8     rule adopted pursuant to that act;

9                     (4) make a material misstatement in an  
10    application for licensure;

11                    (5) intentionally make a material misstatement  
12    to the department during an official investigation;

13                    (6) aid or abet another in violating  
14    provisions of the ~~[Hoisting]~~ Crane Operators Safety Act or a  
15    rule adopted pursuant to that act;

16                    (7) alter or falsify a license issued by the  
17    department; or

18                    (8) fail to furnish to the department, its  
19    investigators or its representatives information requested by  
20    the department in the course of an official investigation.

21                    D. The department may deny, suspend or revoke a  
22    license for a violation of the rules adopted by the department  
23    pursuant to the ~~[Hoisting]~~ Crane Operators Safety Act or for a  
24    violation of the provisions of that act.

25                    E. Disciplinary proceedings may be instituted by

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1 sworn complaint by any person, including department staff or a  
2 member of the council, and shall conform with the provisions of  
3 the Uniform Licensing Act.

4 F. The department may issue a citation and fine to  
5 an individual or business for violation of the provisions of  
6 the [~~Hoisting~~] Crane Operators Safety Act. The amount of such  
7 fines and terms of such orders shall be established by the  
8 department by rule subject to the limitations of Section  
9 60-15-13 NMSA 1978."

10 SECTION 9. Section 60-15-12 NMSA 1978 (being Laws 1993,  
11 Chapter 183, Section 12, as amended) is amended to read:

12 "60-15-12. LICENSURE DENIAL, SUSPENSION OR REVOCATION--  
13 HEARING--APPEALS.--The superintendent shall, before denying a  
14 license to an applicant, or revoking or suspending a license  
15 for a violation of any provision of the [~~Hoisting~~] Crane  
16 Operators Safety Act, provide for a hearing pursuant to the  
17 provisions of the Uniform Licensing Act."

18 SECTION 10. Section 60-15-13 NMSA 1978 (being Laws 1993,  
19 Chapter 183, Section 13, as amended) is amended to read:

20 "60-15-13. CIVIL AND ADMINISTRATIVE PENALTIES.--

21 A. A person who engages in unlicensed operation may  
22 be assessed an administrative penalty not to exceed one  
23 thousand dollars (\$1,000).

24 B. An employer, firm, partnership, corporation,  
25 association or other organization that knowingly violates the

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1 provisions of the [~~Hoisting~~] Crane Operators Safety Act may be  
2 assessed an administrative penalty not to exceed five thousand  
3 dollars (\$5,000).

4 C. Any licensed [~~hoisting~~] crane operator who  
5 violates a provision of the [~~Hoisting~~] Crane Operators Safety  
6 Act may be assessed an administrative penalty not to exceed  
7 five thousand dollars (\$5,000).

8 D. The department may bring an action in a court of  
9 competent jurisdiction to enforce the provisions of or to  
10 enjoin a person from violating the provisions of the [~~Hoisting~~]  
11 Crane Operators Safety Act. If the court finds that a  
12 violation has occurred, the person who committed the violation  
13 shall be liable for the expenses incurred by the department in  
14 investigating and enforcing the provisions of that act plus  
15 reasonable attorney fees and costs associated with court  
16 action."

17 SECTION 11. Section 60-15-14 NMSA 1978 (being Laws 1993,  
18 Chapter 183, Section 14, as amended) is amended to read:

19 "60-15-14. [~~HOISTING~~] CRANE OPERATORS LICENSURE EXAMINING  
20 COUNCIL--APPOINTED.--

21 A. The "[~~hoisting~~] crane operators licensure  
22 examining council" is created. The members of the council  
23 shall serve at the pleasure of the superintendent. The  
24 superintendent shall appoint at least five members to the  
25 council with consideration given to geographical representation

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1 and proportional representation of operator, contractor, labor  
2 and public members. The members of the council shall include  
3 at least:

- 4 (1) one class I [~~hoisting~~] crane operator;
- 5 (2) one contractor, as defined by Section  
6 60-13-3 NMSA 1978, who employs at least one [~~hoisting~~] crane  
7 operator;
- 8 (3) one representative of organized labor; and
- 9 (4) two members from the public at large who  
10 are not licensed [~~hoisting~~] crane operators.

11 B. The duties of the council include:

- 12 (1) reviewing and approving the applications,  
13 qualifications and examinations of applicants for licensure as  
14 [~~hoisting~~] crane operators and recommending to the  
15 superintendent whether licensure should be granted based on  
16 their evaluation of the operating experience and competence of  
17 the applicants;
- 18 (2) reporting findings and recommendations  
19 from the hearings to the superintendent;
- 20 (3) proceeding according to regulations  
21 adopted by the department; and
- 22 (4) approving examinations and training  
23 programs that meet the requirements of the federal occupational  
24 safety and health administration, United States department of  
25 labor or occupational health and safety bureau of the

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1 department of environment."

2 SECTION 12. Section 60-15-15 NMSA 1978 (being Laws 2005,  
3 Chapter 52, Section 4) is amended to read:

4 "60-15-15. [~~HOISTING~~] CRANE OPERATORS SAFETY ACT FUND  
5 CREATED--PURPOSE--APPROPRIATION.--

6 A. The "[~~Hoisting~~] Crane Operators Safety Act fund"  
7 is created in the state treasury. The fund shall consist of  
8 legislative appropriations to the fund; fees charged by the  
9 department pursuant to the [~~Hoisting~~] Crane Operators Safety  
10 Act; gifts, grants, donations and bequests to the fund; and  
11 income from investment of the fund. Money in the fund shall  
12 not revert to any other fund at the end of a fiscal year.

13 B. The fund shall be administered by the  
14 department, and money in the fund is appropriated to the  
15 department for the purpose of carrying out the provisions of  
16 the [~~Hoisting~~] Crane Operators Safety Act. Expenditures from  
17 the fund shall be made on warrants drawn by the secretary of  
18 finance and administration pursuant to vouchers signed by the  
19 superintendent or the superintendent's authorized  
20 representative."