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**HOUSE BILL 708**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Thomas E. Swisstack

**AN ACT**

**RELATING TO EDUCATION; PROVIDING FOR ACCESSIBLE ELECTRONIC  
FORMATS FOR INDIVIDUALS WITH DISABILITIES ENROLLED IN DISTANCE  
LEARNING COURSES OF STUDY AND USING COMPUTER-BASED  
INSTRUCTIONAL MATERIALS.**

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

**Section 1. Section 21-2-5.1 NMSA 1978 (being Laws 1988,  
Chapter 164, Section 1, as amended) is amended to read:**

**"21-2-5.1. FUNDING FORMULA. --**

**A. The commission on higher education shall develop  
a funding formula that will provide funding for each  
institution of higher education to accomplish its mission as  
determined by a statewide plan.**

**B. The commission on higher education may include  
factors in the funding formula, which when implemented will**

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1 achieve the following:

2 (1) improve the quality of programs central to  
3 each institution's mission;

4 (2) develop and enhance programs that meet  
5 targeted post-secondary educational needs and the related needs  
6 of public schools;

7 (3) eliminate unnecessary, unproductive or  
8 duplicative programs;

9 (4) consider faculty salaries and benefits  
10 adjustment to a competitive level with similar institutions in  
11 similar states, when such compensation adjustments are  
12 supported by detailed analyses of faculty workloads and  
13 educational outcomes assessments, and nonteaching staff  
14 salaries and benefits at a competitive level with other similar  
15 public or private sector employment in the community in which  
16 the institution is situated;

17 (5) recognize additional costs incurred  
18 through increases in enrollment;

19 (6) provide for equipment and equipment  
20 maintenance and library acquisitions and operations since the  
21 development of the prior funding formula;

22 (7) fund off-campus courses and other  
23 nontraditional course delivery systems at a level sufficient to  
24 allow their development;

25 (8) provide incentives to institutions to

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1 pursue private or alternative funding sources;

2 (9) encourage the sharing of expertise,  
3 equipment and facilities and development of joint instructional  
4 programs, research and public service projects;

5 (10) implement uniform articulation agreements  
6 and facilitation of transfer of students between institutions;

7 (11) encourage energy conservation; ~~and~~

8 (12) require mechanisms to track expenditures  
9 to ensure greater accountability; and

10 (13) require each institution of higher  
11 education that offers distance learning and computer-based  
12 instructional materials for any course of study to provide the  
13 course work with accessible electronic formats that are usable  
14 by an individual with a disability using assistive technology,  
15 those formats to include American standard code for information  
16 interchange, hypertext markup language and extensible markup  
17 language. "

18 Section 2. Section 22-2-2 NMSA 1978 (being Laws 1967,  
19 Chapter 16, Section 5, as amended by Laws 2001, Chapter 286,  
20 Section 1 and by Laws 2001, Chapter 299, Section 5) is amended  
21 to read:

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

25 A. properly and uniformly enforce the provisions of

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1 the Public School Code;

2 B. determine policy for the operation of all public  
3 schools and vocational education programs in the state,  
4 including vocational programs that are part of a juvenile  
5 construction industries initiative for juveniles who are  
6 committed to the custody of the children, youth and families  
7 department;

8 C. appoint a state superintendent;

9 D. purchase and loan instructional material to  
10 students pursuant to the Instructional Material Law and adopt  
11 rules relating to the use and operation of instructional  
12 material depositories in the instructional material  
13 distribution process;

14 E. designate courses of instruction to be taught in  
15 all public schools in the state;

16 F. assess and evaluate all state institutions and  
17 those private schools that desire state accreditation;

18 G. determine the qualifications for and issue a  
19 certificate to any person teaching, assisting teachers,  
20 supervising an instructional program, counseling, providing  
21 special instructional services or administering in public  
22 schools according to law and according to a system of  
23 classification adopted and published by the state board;

24 H. suspend or revoke a certificate held by a  
25 certified school instructor or certified school administrator

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1 according to law for incompetency, immorality or any other good  
2 and just cause;

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

5 J. prescribe courses of instruction, requirements  
6 for graduation and standards for all public schools, for  
7 private schools seeking state accreditation and for the  
8 educational programs conducted in state institutions other than  
9 the New Mexico military institute;

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

12 L. require periodic reports on forms prescribed by  
13 it from all public schools and attendance reports from private  
14 schools;

15 M authorize adult educational programs to be  
16 conducted in schools under its jurisdiction and adopt and  
17 promulgate rules governing all such adult educational programs;

18 N. require any school under its jurisdiction that  
19 sponsors athletic programs involving sports to mandate that the  
20 participating student obtain catastrophic health and accident  
21 insurance coverage, such coverage to be offered through the  
22 school and issued by an insurance company duly licensed  
23 pursuant to the laws of New Mexico;

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

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1 P. accept and receive all grants of money from the  
2 federal government or any other agency for public school  
3 purposes and disburse the money in the manner and for the  
4 purpose specified in the grant;

5 Q. require prior approval for any educational  
6 program in a public school that is to be conducted, sponsored,  
7 carried on or caused to be carried on by a private organization  
8 or agency;

9 R. approve or disapprove all rules promulgated by  
10 any association or organization attempting to regulate any  
11 public school activity and invalidate any rule in conflict with  
12 any rule promulgated by the state board. The state board shall  
13 require any association or organization attempting to regulate  
14 any public school activity to comply with the provisions of the  
15 Open Meetings Act and be subject to the inspection of the  
16 Public Records Act. The state board may require performance  
17 and financial audits of any association or organization  
18 attempting to regulate any public school activity. The state  
19 board shall have no power or control over the rules or the  
20 bylaws governing the administration of the internal  
21 organization of the association or organization;

22 S. review decisions made by the governing board or  
23 officials of any organization or association regulating any  
24 public school activity, and any decision of the state board  
25 shall be final in respect thereto;

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1 T. accept or reject any charitable gift, grant,  
2 devise or bequest. The particular gift, grant, devise or  
3 bequest accepted shall be considered an asset of the state;

4 U. establish and maintain regional centers, at its  
5 discretion, for conducting cooperative services between public  
6 schools and school districts within and among those regions and  
7 to facilitate regulation and evaluation of school programs;

8 V. assess and evaluate for accreditation purposes  
9 at least one-third of all public schools each year through  
10 visits by department of education personnel to investigate the  
11 adequacy of pupil gain in standard required subject matter,  
12 adequacy of pupil activities, functional feasibility of public  
13 school and school district organization, adequacy of staff  
14 preparation and other matters bearing upon the education of the  
15 students;

16 W. provide for management and other necessary  
17 personnel to operate any public school or school district that  
18 has failed to meet requirements of law, state board standards  
19 or state board rules; provided that the operation of the public  
20 school or school district shall not include any consolidation  
21 or reorganization without the approval of the local board of  
22 that school district. Until such time as requirements of law,  
23 standards or rules have been met and compliance is assured, the  
24 powers and duties of the local school board shall be suspended;

25 X. establish and implement a plan that provides for

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1 technical assistance to local school boards through workshops  
2 and other in-service training methods; provided, however, that  
3 no plan shall require mandatory attendance by any member of a  
4 local school board;

5 Y. submit a plan applying for funds available under  
6 Public Law 94-142 and disburse these funds in the manner and  
7 for the purposes specified in the plan;

8 Z. enforce requirements for home schools. Upon  
9 finding that a home school is not in compliance with law, the  
10 state board has authority to order that a student attend a  
11 public school or a private school;

12 AA. develop a systemic framework for professional  
13 development that provides training to ensure quality teachers  
14 and principals and that improves and enhances student  
15 achievement. The state board shall work with public school  
16 educators, the commission on higher education and institutions  
17 of higher education to establish the framework. The framework  
18 shall include:

19 (1) the criteria for school districts to apply  
20 for professional development funds, including an evaluation  
21 component that will be used by the department of education in  
22 approving local school district professional development plans;  
23 and

24 (2) guidelines for developing extensive  
25 professional development activities for school districts,

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1 including teaching strategies, curriculum materials, distance  
2 learning networks and web sites to ensure that the state  
3 board's rules pertaining to content standards and benchmarks  
4 are used by New Mexico teachers;

5 BB. approve education curricula and programs  
6 offered in all two-year public post-secondary educational  
7 institutions, including northern New Mexico state school,  
8 except those in Chapter 21, Article 12 NMSA 1978, that lead to  
9 certificates for alternative certification for degreed  
10 individuals pursuant to Section 22-10-3.5 NMSA 1978 or  
11 certification for educational ~~[assistant]~~ assistants; ~~[and]~~

12 CC. withhold program approval from a college of  
13 education or teacher preparation program that fails to offer a  
14 course on teaching reading that:

15 (1) is based upon current research;

16 (2) aligns with state board-adopted reading  
17 standards;

18 (3) includes strategies and assessment  
19 measures to ensure that beginning teachers are proficient in  
20 teaching reading; and

21 (4) was designed after seeking input from  
22 experts in the education field; and

23 DD. require public schools that offer distance  
24 learning and computer-based instructional materials for any  
25 course of study to provide the course work with accessible

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1 electronic formats that are usable by an individual with a  
2 disability using assistive technology, those formats to include  
3 American standard code for information interchange, hypertext  
4 markup language and extensible markup language. "

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