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HOUSE BILL 745

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO STATE AGENCIES; CREATING THE HIGHER EDUCATION DEPARTMENT AS A CABINET DEPARTMENT; CREATING A HIGHER EDUCATION ADVISORY BOARD; PROVIDING POWERS AND DUTIES; PROVIDING FOR THE TRANSFER OF APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE COMMISSION ON HIGHER EDUCATION TO THE HIGHER EDUCATION DEPARTMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 13 of this act may be cited as the "Higher Education Department Act".

Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the Higher Education Department Act is to establish a single,

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1 unified department to administer laws and exercise functions
2 formerly administered and exercised by the commission on higher
3 education.

4 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the
5 Higher Education Department Act:

6 A. "board" means the higher education advisory
7 board;

8 B. "department" means the higher education
9 department; and

10 C. "secretary" means the secretary of higher
11 education.

12 Section 4. [NEW MATERIAL] DEPARTMENT CREATED. -- The
13 "higher education department" is created in the executive
14 branch. The department is a cabinet department. The secretary
15 may organize the department and divisions of the department and
16 may transfer or merge functions between divisions and bureaus
17 in the interest of efficiency and economy. The secretary shall
18 make recommendations to the second session of the forty-seventh
19 legislature on the statutory organization of the department.

20 Section 5. [NEW MATERIAL] SECRETARY-- APPOINTMENT. --

21 A. The administrative head of the department is the
22 "secretary of higher education", who shall be appointed by the
23 governor with the consent of the senate and who shall serve in
24 the executive cabinet. The secretary shall possess an earned
25 doctorate from a regionally accredited post-secondary

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1 educational institution, a minimum of five years of senior
2 administrative experience, experience in higher education and
3 experience in the development of public policy at the state or
4 federal level.

5 B. An appointed secretary shall serve and have all
6 of the duties, responsibilities and authority of that office
7 during the period of time prior to final action by the senate
8 confirming or rejecting the secretary's appointment.

9 Section 6. [NEW MATERIAL] DIVISION DIRECTORS. --The
10 secretary shall appoint, with the approval of the governor,
11 directors of the divisions established within the department.
12 Division directors are exempt from the Personnel Act.

13 Section 7. [NEW MATERIAL] BUREAU CHIEFS. --The secretary
14 may establish within each division of the department such
15 bureaus as the secretary deems necessary to carry out the
16 provisions of the Higher Education Department Act. The
17 secretary shall employ a chief to be the administrative head of
18 each bureau. The chiefs and all subsidiary employees of the
19 department shall be covered by the Personnel Act.

20 Section 8. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL
21 POWERS. --

22 A. The secretary is responsible to the governor for
23 the operation of the department. It is the secretary's duty to
24 manage all operations of the department and to administer and
25 enforce the laws with which the secretary or the department is

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1 charged.

2 B. To perform the duties of the secretary, the
3 secretary has every power expressly enumerated in the law,
4 whether granted to the secretary, the department or any
5 division of the department, except when any division is
6 explicitly exempted from the secretary's power by statute. In
7 accordance with these provisions, the secretary shall:

8 (1) except as otherwise provided in the Higher
9 Education Department Act or Chapter 21 NMSA 1978, exercise
10 general supervisory and appointing power over all department
11 employees, subject to applicable personnel laws and rules;

12 (2) delegate power to subordinates as the
13 secretary deems necessary and appropriate, clearly delineating
14 such delegated power and the limitations to that power;

15 (3) organize the department into
16 organizational units as necessary to enable it to function most
17 efficiently, subject to any provisions of law requiring or
18 establishing specific organizational units;

19 (4) within the limitations of available
20 appropriations and applicable laws, employ and fix the
21 compensation of those persons necessary to discharge the duties
22 of the secretary;

23 (5) take administrative action by issuing
24 orders and instructions, not inconsistent with law, to ensure
25 implementation of and compliance with the provisions of law for

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1 which administration or execution the secretary is responsible
2 and to enforce those orders and instructions by appropriate
3 administrative action in the courts;

4 (6) conduct research and studies that will
5 improve the operation of the department and the provision of
6 services to the citizens of the state;

7 (7) provide courses of instruction and
8 practical training for employees of the department and other
9 persons involved in the administration of programs with the
10 objectives of improving the operations and efficiency of
11 administration;

12 (8) prepare an annual budget for the
13 department; and

14 (9) provide cooperation, at the request of
15 administratively attached agencies and adjunct agencies, in
16 order to:

17 (a) minimize or eliminate duplication of
18 services and jurisdictional conflicts;

19 (b) coordinate activities and resolve
20 problems of mutual concern; and

21 (c) resolve by agreement the manner and
22 extent to which the department shall provide budgeting, record
23 keeping and related clerical assistance to administratively
24 attached agencies.

25 C. The secretary may apply for and receive, with

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1 the governor's approval, in the name of the department, any
2 public or private funds, including United States government
3 funds, available to the department to carry out its programs,
4 duties or services.

5 D. The secretary may make and adopt such reasonable
6 and procedural rules as may be necessary to carry out the
7 duties of the department and its divisions. No rule
8 promulgated by the director of any division in carrying out the
9 functions and duties of the division shall be effective until
10 approved by the secretary. Unless otherwise provided by
11 statute, no rule affecting any person or agency outside the
12 department shall be adopted, amended or repealed without a
13 public hearing on the proposed action before the secretary or a
14 hearing officer designated by the secretary. The final public
15 hearing on adoption, amendment or repeal of a rule shall be
16 held in Santa Fe unless otherwise permitted by statute. Notice
17 of the subject matter of the rule, the action proposed to be
18 taken, the time and place of the hearing, the manner in which
19 interested persons may present their views and the method by
20 which copies of the proposed rule or proposed amendment or
21 repeal of an existing rule may be obtained shall be published
22 once at least thirty days prior to the hearing date in a
23 newspaper of general circulation and mailed at least thirty
24 days prior to the hearing date to all persons who have made a
25 written request for advance notice of hearing. All rules shall

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1 be filed in accordance with the State Rules Act.

2 Section 9. [NEW MATERIAL] ADDITIONAL DUTIES. -- The
3 department shall:

4 A. create a statewide public agenda to meet the
5 higher education needs and goals, working with colleges,
6 universities and other stakeholders;

7 B. develop recommendations for how much new
8 enrollment capacity is needed and when and how it should be
9 apportioned based on geography, educational sector, state
10 economic needs and other factors; and

11 C. by November 1 of each year, present to the
12 legislature a comprehensive funding request and a legislative
13 priorities list for all higher education. The funding request
14 and priorities shall encompass the needs of all public post-
15 secondary educational institutions and programs.

16 Section 10. [NEW MATERIAL] HIGHER EDUCATION ADVISORY
17 BOARD-- MEMBERSHIP-- TERMS-- ADMINISTRATIVE ATTACHMENT. --

18 A. The "higher education advisory board" is created
19 to advise the department and the governor on policy matters and
20 perform other functions as provided by law. The board is
21 administratively attached to the department, with
22 administrative staff provided by the department.

23 B. The governor shall appoint nine members giving
24 due regard to geographic representation, cultural diversity and
25 the composition of higher education institutions in New Mexico.

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1 Two members shall represent the four-year public post-secondary
2 educational institutions, two members shall represent the two-
3 year public post-secondary educational institutions, one member
4 shall represent the accredited private post-secondary
5 educational institutions, one member shall represent business,
6 one member shall represent college and university faculty, one
7 member shall represent college and university nonfaculty staff
8 and one member shall be a student.

9 C. Members are entitled to receive per diem and
10 mileage as provided in the Per Diem and Mileage Act and shall
11 receive no other perquisite, compensation or allowance.

12 D. The board shall annually elect a chair, vice
13 chair and secretary from among its membership. A majority of
14 the members constitutes a quorum for the conduct of business.

15 E. The board shall meet at the call of the chair at
16 least quarterly. Meetings of the board shall be held in Santa
17 Fe and at other sites within the state at the direction of the
18 board.

19 Section 11. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE
20 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW- ACCESS TO
21 INFORMATION.-- Those organizational units of the department and
22 the officers of those units specified by law shall have all of
23 the powers and duties enumerated in the specific laws involved.
24 However, the carrying out of those powers and duties shall be
25 subject to the direction and supervision of the secretary, who

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1 shall retain the final decision-making authority and
2 responsibility for the administration of any laws as provided
3 in Subsection B of Section 8 of the Higher Education Department
4 Act. The department shall have access to all records, data and
5 information of other state departments, agencies and
6 institutions, including its own organizational units, not
7 specifically held confidential by law; provided, however, that
8 all confidential institutional data, including student records
9 and other information that the secretary deems necessary to
10 fulfill the functions of the department, shall be provided to
11 the department, which shall take steps to ensure the
12 confidentiality of such information and records.

13 Section 12. [NEW MATERIAL] COOPERATION WITH THE FEDERAL
14 GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY
15 STATUS. --

16 A. The department is authorized to cooperate with
17 the federal government in the administration of higher
18 education programs in which financial or other participation by
19 the federal government is authorized or mandated under state or
20 federal laws, rules or orders. The secretary may enter into
21 agreements with agencies of the federal government to implement
22 higher education programs subject to availability of
23 appropriated state funds and any provisions of state laws
24 applicable to such agreements or participation by the state.

25 B. The governor or the secretary may by appropriate

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1 order designate the department or any organizational unit of
2 the department as the single state agency for the
3 administration of any higher education program when that
4 designation is a condition of federal financial or other
5 participation in the program under applicable federal law, rule
6 or order. Whether or not a federal condition exists, the
7 governor may designate the department or any organizational
8 unit of the department as the single state agency for the
9 administration of any higher education program. No designation
10 of a single state agency under the authority granted in this
11 section shall be made in contravention of state law.

12 Section 13. [NEW MATERIAL] ADVISORY COMMITTEES. --

13 A. In addition to the higher education advisory
14 board, the department may create other advisory committees.
15 "Advisory" means furnishing advice, gathering information,
16 making recommendations and performing such other activities as
17 may be instructed or delegated and as may be necessary to
18 fulfill advisory functions or to comply with federal or private
19 funding requirements and does not extend to administering a
20 program or function or setting policy unless specified by law.
21 Advisory committees shall be appointed in accordance with the
22 provisions of the Executive Reorganization Act.

23 B. All members of advisory committees are entitled
24 to receive per diem and mileage as provided in the Per Diem and
25 Mileage Act and shall receive no other compensation, perquisite

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1 or allowance.

2 Section 14. A new section of Chapter 21, Article 1 NMSA
3 1978 is enacted to read:

4 "[NEW MATERIAL] EDUCATIONAL NEEDS AND GUIDELINES--
5 ACCOUNTABILITY REPORTS. --

6 A. The post-secondary educational institutions
7 enumerated in Article 12, Section 11 of the constitution of New
8 Mexico shall meet the statewide educational needs and
9 guidelines defined by rule of the higher education department.

10 B. All public post-secondary educational
11 institutions, including off-campus instruction programs and
12 learning centers, shall:

13 (1) approve and submit accountability reports
14 prepared in accordance with rules of the department; and

15 (2) submit proposed budgets no later than
16 August 1 each year for the following fiscal year. "

17 Section 15. Section 21-1-26 NMSA 1978 (being Laws 1951,
18 Chapter 190, Section 1, as amended) is amended to read:

19 "21-1-26. [~~COMMISSION ON~~] HIGHER EDUCATION [~~CREATED~~]
20 DEPARTMENT--GENERAL POWERS. --

21 A. [~~There is created a "commission on higher~~
22 ~~education" whose function is to deal~~] The higher education
23 department shall be concerned with the problems of finance of
24 those educational institutions designated in Article 12,
25 Section 11 of the constitution of New Mexico and other public

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1 post-secondary educational institutions in the state. The
2 [~~commission~~] department shall:

3 (1) be concerned with the adequate financing
4 of these institutions and with the equitable distribution of
5 available funds among them;

6 [~~(2) be authorized to receive funding for the~~
7 ~~in-plant development training program and to administer the~~
8 ~~funds in accordance with the provisions of Section 21-19-7 NMSA~~
9 ~~1978;~~

10 [~~(3)~~] (2) receive, adjust and approve the
11 budgets submitted by these institutions prior to the submission
12 of these budgets to the state budget division of the department
13 of finance and administration;

14 [~~(4)~~] (3) develop and maintain programs, on a
15 regular basis, for the orientation and in-service education of
16 members of the boards of regents of the various educational
17 institutions designated in Article 12, Section 11 of the
18 constitution of New Mexico and the governing bodies of other
19 public post-secondary educational institutions in the state;

20 (4) after July 1, 2005, approve each new
21 degree program of each public post-secondary educational
22 institution prior to the department's approval of the
23 institution's operating budget; and

24 (5) exercise such other powers as may be
25 granted it by law.

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1 B. Notwithstanding any other provisions of law, the
2 ~~[commission on]~~ higher education ~~[which is a commission broadly~~
3 ~~representative of the public and of institutions of higher~~
4 ~~education]~~ department may be designated by the governor to
5 administer funds furnished under acts of congress for those
6 educational institutions enumerated in Article 12, Section 11
7 of the constitution of New Mexico and for any other educational
8 institutions over which the ~~[commission]~~ department has been
9 granted approval authority or supervisory powers or both.

10 C. The ~~[commission on]~~ higher education department
11 is also charged with oversight of all private post-secondary
12 educational institutions operating within the state. "

13 Section 16. Section 21-1-26.1 NMSA 1978 (being Laws 1980,
14 Chapter 145, Section 2) is amended to read:

15 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties
16 imposed upon the ~~[board of educational finance]~~ higher
17 education department by the Post-Secondary Educational Planning
18 Act, the ~~[board]~~ department shall ~~[have the responsibility of~~
19 ~~performing]~~ perform the same planning and budgeting functions
20 for the ~~[Bernalillo county medical center]~~ university of New
21 Mexico hospital as it performs for other post-secondary
22 educational institutions. "

23 Section 17. Section 21-1-26.2 NMSA 1978 (being Laws 1981,
24 Chapter 69, Section 1) is amended to read:

25 "21-1-26.2. POST-SECONDARY EDUCATION--ADULT CORRECTIONAL
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1 FACILITIES. -- Upon approval by the corrections [~~and criminal~~
2 ~~rehabilitation~~] department in consultation with the [~~board of~~
3 ~~educational finance~~] higher education department, state-
4 supported post-secondary educational institutions shall receive
5 credit on a full-time equivalency basis for students enrolled
6 in their respective programs within adult correctional
7 facilities. Funding recommendations to implement the
8 provisions of this section shall be developed by the [~~board of~~
9 ~~educational finance~~] higher education department or the public
10 [~~school finance division of the department of finance and~~
11 ~~administration~~] education department as appropriate in the same
12 manner that funding recommendations for similar programs at
13 other institutions are calculated. "

14 Section 18. Section 21-1-26.3 NMSA 1978 (being Laws 1986,
15 Chapter 24, Section 3, as amended) is amended to read:

16 "21-1-26.3. VERIFICATION FUNCTION. -- The [~~commission on~~]
17 higher education department shall annually conduct special
18 verifications of the institutions of higher education. The
19 verifications shall include [~~but not be limited to~~]
20 enrollments, fund balances, compliance with legislation,
21 comparison of expenditures to budgets and other areas to be
22 determined by the [~~commission~~] department. Reports on the
23 verifications shall be made annually to the department of
24 finance and administration and the legislative finance
25 committee. The [~~commission~~] department shall consider the

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1 verification findings in making its annual recommendations to
2 the executive and legislature for higher education funding. "

3 Section 19. Section 21-1-26.7 NMSA 1978 (being Laws 1990
4 (1st S.S.), Chapter 4, Section 2, as amended) is amended to
5 read:

6 "21-1-26.7. ANNUAL ACCOUNTABILITY REPORT. --

7 A. The [~~commission on~~] higher education department
8 shall submit an annual accountability report to the governor
9 and to the legislature by December 31. Prior to publication,
10 the [~~commission on higher education~~] department shall
11 distribute a draft of the accountability report to all public
12 post-secondary educational institutions and shall allow comment
13 upon the draft report.

14 B. The [~~commission on higher education~~] department
15 in consultation with the public post-secondary educational
16 institution shall develop and adopt the content and a format
17 for the report, including the following information:

- 18 (1) student progress and success;
19 (2) student access and diversity;
20 (3) affordability and cost of educational
21 services; and
22 (4) public and community service by the
23 institutions.

24 C. The [~~commission on higher education~~] department
25 shall make no funding recommendation, capital outlay

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1 recommendation, distribution or certification on behalf of any
2 public post-secondary educational institution that has not
3 submitted the information required pursuant to this section. "

4 Section 20. Section 21-1-26.8 NMSA 1978 (being Laws 1995,
5 Chapter 144, Section 1) is amended to read:

6 "21-1-26.8. HEALTH PROFESSION ADVISORY COMMITTEE--
7 CREATED--DUTIES.--

8 A. The "health profession advisory committee" is
9 created to advise the [~~commission~~] higher education
10 department on matters relating to the administration of student
11 loan programs for health professionals. The health profession
12 advisory committee replaces the medical shortage area
13 committee.

14 B. The health profession advisory committee shall
15 be composed of a representative of the department of health; a
16 representative of the New Mexico health policy commission; and
17 representatives of public post-secondary health and medical
18 training programs, underserved health and medical area
19 providers, recruiting and placement organizations and
20 professional health and medical associations. Members shall be
21 appointed by the [~~commission~~] higher education department
22 pursuant to the policies and procedures of the [~~commission~~]
23 department.

24 C. The health profession advisory committee shall:

25 (1) designate health professional shortage

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1 areas of the state;

2 (2) make recommendations to the [~~commission on~~
3 ~~higher education~~] department on applicants for medical,
4 osteopathic, nursing and allied health loan for service
5 programs and loan repayment programs; and

6 (3) give advice or other assistance to the
7 [~~commission~~] department as requested. "

8 Section 21. Section 21-1-26.9 NMSA 1978 (being Laws 1998,
9 Chapter 61, Section 2) is amended to read:

10 "21-1-26.9. LIMITATION-- [~~COMMISSION ON~~] HIGHER EDUCATION
11 DEPARTMENT-- REVIEW OF PROPOSED CAMPUSES.-- Effective January 1,
12 1998, no new public post-secondary educational institution,
13 branch campus or off-campus instructional center shall be
14 created except as specifically created by the legislature. The
15 [~~commission on~~] higher education department shall review any
16 proposal for the establishment of a new public post-secondary
17 educational institution or campus and submit its
18 recommendations to the legislature. In reviewing proposals,
19 the [~~commission~~] department may consider:

20 A. provisions for a local mill levy of at least two
21 mills;

22 B. population base to provide at least five hundred
23 full-time students;

24 C. whether at least fifty percent of the costs of
25 initial construction comes from private or local sources;

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- 1 D. governance structure;
- 2 E. means for acquisition of property, including
- 3 purchase, lease, donations or any other means;
- 4 F. eligibility and level of funding request of the
- 5 state; and
- 6 G. brokering of extended learning provisions. "

7 Section 22. Section 21-1-26.10 NMSA 1978 (being Laws 1999
8 (1st S.S.), Chapter 6, Section 18) is amended to read:

9 "21-1-26.10. [~~COMMISSION-ON~~] HIGHER EDUCATION
10 DEPARTMENT- - PLAN FOR FUNDING SIGNIFICANT POST-SECONDARY
11 EDUCATIONAL INFRASTRUCTURE NEEDS. -- [A.] The [~~commissi-on-on~~]
12 higher education department, in conjunction with the governing
13 bodies of the post-secondary educational institutions and other
14 state educational institutions confirmed in Article 12, Section
15 11 of the constitution of New Mexico, shall develop and approve
16 a five-year plan for funding [~~with supplemental severance tax~~
17 ~~bonds~~] the infrastructure renovation and expansion projects
18 designated by the [~~commissi-on~~] department as the highest
19 priority of significant needs. The [~~commissi-on~~] department
20 shall determine the projects and amounts to be funded, with a
21 timetable for the projects and amounts to be funded each year
22 over the five-year period, subject to review and comment by the
23 educational institutions and subject to [~~the amount of~~
24 ~~supplemental severance tax bonds issued each year~~]
25 appropriations.

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1 ~~[B. The commission on higher education shall~~
2 ~~administer the proceeds from supplemental severance tax bonds~~
3 ~~appropriated to the commission and distribute the proceeds to~~
4 ~~the respective governing bodies of the educational institutions~~
5 ~~with projects that are funded with the proceeds pursuant to the~~
6 ~~plan approved and adopted by the commission in Subsection A of~~
7 ~~this section.]"~~

8 Section 23. Section 21-1-26.11 NMSA 1978 (being Laws
9 2003, Chapter 394, Section 1) is amended to read:

10 "21-1-26.11. ~~[COMMISSION ON]~~ HIGHER EDUCATION
11 DEPARTMENT--ADDITIONAL DUTIES. --In addition to the duties
12 imposed upon the ~~[commission on]~~ higher education department by
13 the Post-Secondary Educational Planning Act, the ~~[commission]~~
14 department shall ~~[have the responsibility of planning and~~
15 ~~budgeting functions]~~ plan and budget for the statewide adult
16 basic education program and ~~[authority to]~~ shall adopt and
17 promulgate rules for all such adult educational programs. The
18 ~~[commission will]~~ department shall establish a uniform protocol
19 for identifying, ~~communicating with~~ and providing direct and
20 equitable access to funding for eligible agencies, which
21 include:

- 22 A. local educational agencies;
- 23 B. community-based organizations;
- 24 C. volunteer literacy organizations;
- 25 D. post-secondary institutions;

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- 1 E. public or private nonprofit agencies;
- 2 F. public libraries;
- 3 G. public housing authorities; and
- 4 H. a consortium of agencies, organizations,
- 5 institutions, libraries or authorities as described in Section
- 6 203 of Public Law 105. "

7 Section 24. Section 21-1-27 NMSA 1978 (being Laws 1965,

8 Chapter 267, Section 1, as amended) is amended to read:

9 "21-1-27. [~~COMMISSION ON~~] HIGHER EDUCATION DEPARTMENT--

10 DISTRIBUTION OF AVAILABLE FUNDS.--In its distribution of

11 available funds and its adjustment and approval of budgets, the

12 [~~commission on~~] higher education department shall not, in any

13 event or in any manner, substitute for public funds any gift,

14 donation, private endowment, patent income or other gratuity

15 received or enjoyed by an institution in determining the

16 adequate financing of an institution under its charge. "

17 Section 25. Section 21-1-33 NMSA 1978 (being Laws 1974,

18 Chapter 30, Section 2, as amended) is amended to read:

19 "21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL. --

20 A. The [~~commission on~~] higher education department,

21 in consultation with the state auditor, shall compile a manual

22 prescribing a uniform classification of accounts and a uniform

23 system for budgeting and reporting that includes the reporting

24 of all funds available. The manual shall apply to all

25 institutions enumerated in Article 12, Section 11 of the

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1 constitution of New Mexico and all their branches, except the
2 New Mexico school for the blind and visually [~~handi-capped~~
3 impaired and the New Mexico school for the deaf. The manual
4 shall also apply to the [~~New Mexico junior college~~] two-year
5 public post-secondary educational institutions.

6 B. The uniform system for budgeting and reporting
7 shall require the submission of at least quarterly financial
8 reports.

9 C. Following [~~approval~~] review by the legislative
10 finance committee, the manual shall be reproduced by the
11 [~~commission on higher education~~] department and filed as
12 required by the State Rules Act. Upon the filing, the
13 requirements set forth in the manual shall constitute rules of
14 the [~~commission~~] department and have the force of law. The
15 [~~commission~~] department shall review the manual annually.
16 Sections of the manual may be revised or amended from time to
17 time by the [~~commission~~] department, and revisions or
18 amendments shall become effective upon [~~approval~~] review by the
19 legislative finance committee and reproduction and filing as
20 provided in this section.

21 D. All institutions to which this section and
22 Section 21-1-32 NMSA 1978 apply shall comply with all of the
23 requirements in the manual, submit reports to the [~~commission~~
24 ~~on higher education~~] department as requested and furnish such
25 additional information as the [~~commission~~] department deems

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1 necessary. "

2 Section 26. Section 21-1-34 NMSA 1978 (being Laws 1977,
3 Chapter 330, Section 1, as amended) is amended to read:

4 "21-1-34. EDUCATIONAL TELEVISION EQUIPMENT REPLACEMENT
5 FUND--DISBURSEMENT.--The "educational television equipment
6 replacement fund" is created. The [~~board of educational~~
7 ~~finance~~] higher education department shall develop criteria and
8 promulgate [~~regulations~~] rules for the disbursement of money in
9 this fund for the replacement of equipment at educational
10 television stations operated by institutions of higher
11 education. Disbursement shall be made to the institutions by
12 warrant of the department of finance and administration upon
13 vouchers signed by the [~~executive~~] secretary of [~~the board of~~
14 ~~educational finance~~] higher education. It is the intent of the
15 legislature that in subsequent years a specific line item for
16 educational television replacement shall be included in the
17 appropriations recommended for educational television by the
18 [~~board of educational finance~~] department. The appropriation
19 to the fund in the General Appropriation Act of 1982 shall not
20 revert to the general fund at the end of any fiscal year, and
21 no subsequent appropriation to the fund shall revert unless it
22 contains the sentence "The appropriation to the educational
23 television equipment replacement fund shall revert. ". "

24 Section 27. Section 21-1B-2 NMSA 1978 (being Laws 1995,
25 Chapter 224, Section 2) is amended to read:

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1 "21-1B-2. DEFINITIONS. -- As used in the Post-Secondary
2 Education Articulation Act:

3 A. "articulation" means the transfer of course
4 credit from one institution to another;

5 B. "commission" or "department" means the
6 [~~commission~~ on] higher education department;

7 C. "institution" means a public post-secondary
8 educational institution operating in the state; and

9 D. "module" or "transfer module" means a
10 standardized list of courses or skills established by the
11 [~~commission~~] department for which credit is accepted for
12 transfer from one institution to another. "

13 Section 28. Section 21-13-11 NMSA 1978 (being Laws 1963,
14 Chapter 17, Section 10, as amended) is amended to read:

15 "21-13-11. STANDARDS AND ACCREDITING OF COMMUNITY
16 COLLEGES. --

17 A. The community college board shall prescribe the
18 course of study for the community college and shall define, in
19 conjunction with the [~~commission~~ on] higher education
20 department, official standards of excellence in all matters
21 relating to the administration, course of study and quality of
22 instruction, except that the prescribed standards may not be
23 less in quality or quantity than those prescribed for other
24 state institutions of higher learning by the regional
25 accrediting agency that accredits other colleges and

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1 universities of the state.

2 B. The ~~[executive director of the commission on~~
3 ~~higher education]~~ department shall annually inspect, or
4 investigate through the requirement of reports prescribed by
5 ~~[him]~~ the department, each community college. The inspection
6 or investigation by report shall be conducted upon the
7 facilities and program of each community college to determine
8 the extent of compliance with the rules promulgated by the
9 ~~[commission]~~ department. A report of each inspection or final
10 investigation by report shall be made to the ~~[commission]~~
11 department.

12 C. In the event of any serious deviation from
13 established practices and procedures or any deficiencies that
14 impair the quality of the instructional program in any
15 community college, the ~~[commission on higher education]~~
16 department shall first call these to the attention of the
17 president of the community college and the community college
18 board.

19 D. In the case of repeated failure to meet the
20 standards provided for in Subsection A of this section, the
21 ~~[commission on higher education]~~ department may take action
22 discontinuing the approval of any community college so
23 delinquent. Upon a showing that the unsatisfactory conditions
24 have been remedied, the ~~[commission]~~ department may reinstate
25 its approval of a disapproved community college. "

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1 Section 29. Section 21-21B-1 NMSA 1978 (being Laws 1982,
2 Chapter 88, Section 1) is amended to read:

3 "21-21B-1. SHORT TITLE. -- ~~[This act]~~ Chapter 21, Article
4 21B NMSA 1978 may be cited as the "Work-Study Act". "

5 Section 30. Section 21-21B-2 NMSA 1978 (being Laws 1982,
6 Chapter 88, Section 2) is amended to read:

7 "21-21B-2. DEFINITIONS. -- As used in the Work-Study Act:

8 A. "board" or "commission" or "department" means
9 the ~~[board of educational finance]~~ higher education department;
10 and

11 B. "institution" means any state post-secondary
12 educational institution and any private nonprofit post-
13 secondary educational institution within New Mexico. "

14 Section 31. TEMPORARY PROVISION--GUIDELINES AND
15 RECOMMENDATIONS. --

16 A. By January 1, 2006, the higher education
17 department shall develop guidelines for ~~community~~ colleges,
18 branch ~~community~~ colleges, technical and vocational institutes,
19 off-campus instruction programs and learning centers that
20 define the ~~minimum~~ population base, fiscal resources, program
21 expertise and ~~community~~ support for each college, program and
22 center.

23 B. By January 1, 2007, the higher education
24 department shall review all existing ~~community~~ colleges, branch
25 ~~community~~ colleges, technical and vocational institutes, off-

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1 campus instruction programs and learning centers based on the
2 guidelines and make recommendations to the legislature and the
3 governor for statutory changes.

4 Section 32. TEMPORARY PROVISION-- TRANSFERS. --

5 A. On the effective date of this act, all
6 functions, appropriations, money, personnel, records, files,
7 furniture, equipment and other property of the commission on
8 higher education shall be transferred to the higher education
9 department.

10 B. On the effective date of this act, all
11 contractual obligations of the commission on higher education
12 shall be binding on the higher education department.

13 C. On the effective date of this act, all
14 references in law to the commission on higher education shall
15 be deemed to be references to the higher education department
16 and all references in law to the executive director of the
17 commission on higher education shall be deemed to be references
18 to the secretary of higher education.

19 Section 33. REPEAL. -- Sections 21-1-28 through 21-1-31
20 NMSA 1978 (being Laws 1977, Chapter 246, Section 49, Laws 1971,
21 Chapter 224, Section 1 and Laws 1951, Chapter 190, Sections 3
22 and 4, as amended) are repealed.

23 Section 34. EMERGENCY. -- It is necessary for the public
24 peace, health and safety that this act take effect immediately.