

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 677

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

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,

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 shall organize the department so that bureaus and divisions  
16 exist to focus on the needs of and for the diverse categories  
17 of post-secondary institutions, including two-year  
18 institutions, four-year institutions, research institutions and  
19 institutions with academic medical centers. The secretary  
20 shall make recommendations to the second session of the  
21 forty-seventh legislature on the statutory organization of the  
22 department.

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

24 A. The administrative head of the department is the  
25 "secretary of higher education", who shall be appointed by the

1 governor with the consent of the senate and who shall serve in  
 2 the executive cabinet. The secretary shall possess a terminal  
 3 degree from a regionally accredited post-secondary educational  
 4 institution, a minimum of five years of senior administrative  
 5 experience, experience in higher education and experience in  
 6 the development of public policy at the state or federal level.

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

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

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

22 Section 8. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL  
 23 POWERS. --

24 A. The secretary is responsible to the governor for  
 25 the operation of the department. It is the secretary's duty to

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1 manage all operations of the department and to administer and  
2 enforce the laws with which the secretary or the department is  
3 charged.

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

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

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

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

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

25 (5) take administrative action by issuing

1 orders and instructions, not inconsistent with law, to ensure  
2 implementation of and compliance with the provisions of law for  
3 which administration or execution the secretary is responsible  
4 and to enforce those orders and instructions by appropriate  
5 administrative action in the courts;

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

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

14 (8) prepare an annual budget for the  
15 department; and

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

19 (a) minimize or eliminate duplication of  
20 services and jurisdictional conflicts;

21 (b) coordinate activities and resolve  
22 problems of mutual concern; and

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

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1 attached agencies.

2 C. The secretary may apply for and receive, with  
3 the governor's approval, in the name of the department, any  
4 public or private funds, including United States government  
5 funds, available to the department to carry out its programs,  
6 duties or services.

7 D. The secretary may make and adopt such reasonable  
8 and procedural rules as may be necessary to carry out the  
9 duties of the department and its divisions. No rule  
10 promulgated by the director of any division in carrying out the  
11 functions and duties of the division shall be effective until  
12 approved by the secretary. Unless otherwise provided by  
13 statute, no rule affecting any person or agency outside the  
14 department shall be adopted, amended or repealed without a  
15 public hearing on the proposed action before the secretary or a  
16 hearing officer designated by the secretary. No rule  
17 promulgated by the department shall infringe upon the authority  
18 vested by Article 12 of the constitution of New Mexico in the  
19 boards of regents of the educational institutions specified in  
20 that article. The final public hearing on adoption, amendment  
21 or repeal of a rule shall be held in Santa Fe unless otherwise  
22 permitted by statute. Notice of the subject matter of the  
23 rule, the action proposed to be taken, the time and place of  
24 the hearing, the manner in which interested persons may present  
25 their views and the method by which copies of the proposed rule

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1 or proposed amendment or repeal of an existing rule may be  
 2 obtained shall be published once at least thirty days prior to  
 3 the hearing date in a newspaper of general circulation and  
 4 mailed at least thirty days prior to the hearing date to all  
 5 persons who have made a written request for advance notice of  
 6 hearing. All rules shall be filed in accordance with the State  
 7 Rules Act.

8 Section 9. [NEW MATERIAL] ADDITIONAL DUTIES. -- Consistent  
 9 with constitutional provisions relating to the control and  
 10 management of the educational institutions enumerated in  
 11 Article 12, Section 11 of the constitution of New Mexico, the  
 12 department shall:

13 A. cooperate with colleges and universities to  
 14 create a statewide public agenda to meet higher education needs  
 15 and goals;

16 B. periodically study and report to the governor  
 17 and the legislative finance committee on enrollment capacity  
 18 needs over a ten-year period, based on state demographic  
 19 models, academic program demands, institutional competencies  
 20 and infrastructure, state workforce needs, economic development  
 21 goals and other factors; and

22 C. by November 1 of each year, present to the  
 23 legislature a comprehensive funding request and a legislative  
 24 priorities list for all higher education. The funding request  
 25 and priorities shall encompass the needs of all public post-

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1 secondary educational institutions and programs.

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

4 A. The "higher education advisory board" is created  
5 to advise the department and the governor on policy matters and  
6 perform other functions as provided by law. The board is  
7 administratively attached to the department, with  
8 administrative staff provided by the department.

9 B. The governor shall appoint ten members giving  
10 due regard to geographic representation, cultural diversity and  
11 the composition of higher education institutions in New Mexico.  
12 Three members shall represent the four-year public post-  
13 secondary educational institutions, one of whom shall represent  
14 an institution with an academic medical center and one of whom  
15 shall represent an institution with external research funding  
16 in excess of ten percent of its budget; two members shall  
17 represent the two-year public post-secondary educational  
18 institutions; one member shall represent the accredited private  
19 post-secondary educational institutions; one member shall  
20 represent business; one member shall represent college and  
21 university faculty; one member shall represent college and  
22 university nonfaculty staff and one member shall be a college  
23 or university student. The members representing the categories  
24 of post-secondary educational institutions shall be the chief  
25 executive officers of the institutions of those categories or

underscored material = new  
[bracketed material] = delete



1 the chief executive officers' designees. The members  
 2 representing faculty and nonfaculty staff and the student  
 3 member shall be the leaders of faculty, staff and student  
 4 organizations at their respective institutions.

5 C. Members shall serve four-year terms. Members  
 6 are entitled to receive per diem and mileage as provided in the  
 7 Per Diem and Mileage Act and shall receive no other perquisite,  
 8 compensation or allowance.

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

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

16 Section 11. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE  
 17 DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO  
 18 INFORMATION.--Those organizational units of the department and  
 19 the officers of those units specified by law shall have all of  
 20 the powers and duties enumerated in the specific laws involved.  
 21 However, the carrying out of those powers and duties shall be  
 22 subject to the direction and supervision of the secretary, who  
 23 shall retain the final decision-making authority and  
 24 responsibility for the administration of any laws as provided  
 25 in Subsection B of Section 8 of the Higher Education Department

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1 Act. The department shall have access to all records, data and  
2 information of other state departments, agencies and  
3 institutions, including its own organizational units, not  
4 specifically held confidential by law; provided, however, that  
5 when the department requires confidential institutional data,  
6 including student records and other information necessary to  
7 fulfill the functions of the department, the secretary and the  
8 institution shall cooperate to provide the department with  
9 information adequate to meet its needs while meeting all legal  
10 requirements to ensure the confidentiality of such information  
11 and records.

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

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

24 B. The governor or the secretary may by appropriate  
25 order designate the department or any organizational unit of

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

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

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

24 B. All members of advisory committees are entitled  
 25 to receive per diem and mileage as provided in the Per Diem and

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1 Mileage Act and shall receive no other compensation, perquisite  
2 or allowance.

3 Section 14. A new section of Chapter 21, Article 1 NMSA  
4 1978 is enacted to read:

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

7 A. The higher education department shall, through  
8 consultation with all public post-secondary educational  
9 institutions, develop and publish a statement of statewide  
10 educational needs and guidelines to assist the institutions in  
11 the development or modification of institutional strategic  
12 plans. The department may conduct studies of statewide  
13 educational needs and make recommendations to the governor, the  
14 legislature and public post-secondary educational institutions.

15 B. All public post-secondary educational  
16 institutions, including off-campus instruction programs and  
17 learning centers, shall:

18 (1) approve and submit accountability reports  
19 prepared in accordance with the statewide public agenda; and

20 (2) submit budgets for review no later than  
21 August 1 each year for the following fiscal year. "

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

24 "21-1-26. [~~COMMISSION ON~~] HIGHER EDUCATION [~~CREATED~~]  
25 DEPARTMENT--GENERAL POWERS. --

1           A. ~~[There is created a "commission on higher~~  
 2 ~~education" whose function is to deal]~~ The higher education  
 3 department shall be concerned with the problems of finance of  
 4 those educational institutions designated in Article 12,  
 5 Section 11 of the constitution of New Mexico and other public  
 6 post-secondary educational institutions in the state. The  
 7 ~~[commission]~~ department shall:

8                   (1) be concerned with the adequate financing  
 9 of these institutions and with the equitable distribution of  
 10 available funds among them;

11                   ~~[(2) be authorized to receive funding for the~~  
 12 ~~in-plant development training program and to administer the~~  
 13 ~~funds in accordance with the provisions of Section 21-19-7 NMSA~~  
 14 ~~1978;~~

15                   ~~(3)]~~ (2) receive, adjust and approve the  
 16 budgets submitted by these institutions prior to the submission  
 17 of these budgets to the state budget division of the department  
 18 of finance and administration;

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

25                   (4) analyze the financial impact of each new

1 degree program of each public post-secondary educational  
2 institution as part of the department's review of the  
3 institution's operating budget; and

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

6 B. Effective July 1, 2005, all new state-funded  
7 baccalaureate, graduate and professional degree programs shall  
8 be offered by public four-year educational institutions and all  
9 new associate degree programs shall be offered by public post-  
10 secondary educational institutions after a timely and thorough  
11 consultation with and review by the department.

12 ~~[B.]~~ C. Notwithstanding any other provisions of  
13 law, the ~~[commission on]~~ higher education ~~[which is a~~  
14 ~~commission broadly representative of the public and of~~  
15 ~~institutions of higher education]~~ department may be designated  
16 by the governor to administer funds furnished under acts of  
17 congress for ~~[those]~~ post-secondary educational institutions,  
18 except for funds specifically appropriated or otherwise  
19 designated for those educational institutions enumerated in  
20 Article 12, Section 11 of the constitution of New Mexico. ~~[and~~  
21 ~~for any other educational institutions over which the~~  
22 ~~commission has been granted approval authority or supervisory~~  
23 ~~powers or both.~~

24 ~~C.]~~ D. The ~~[commission on]~~ higher education  
25 department is also charged with oversight of all private

1 post-secondary educational institutions operating within the  
2 state. "

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

5 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties  
6 imposed upon the [~~board of educational finance~~] higher  
7 education department by the Post-Secondary Educational Planning  
8 Act, the [~~board~~] department shall [~~have the responsibility of~~  
9 ~~performing~~] perform the same planning and budgeting functions  
10 for the [~~Bernalillo county medical center~~] university of New  
11 Mexico hospital as it performs for other post-secondary  
12 educational institutions. "

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

15 "21-1-26.2. POST-SECONDARY EDUCATION--ADULT CORRECTIONAL  
16 FACILITIES.--Upon approval by the corrections [~~and criminal~~  
17 ~~rehabilitation~~] department in consultation with the [~~board of~~  
18 ~~educational finance~~] higher education department, state-  
19 supported post-secondary educational institutions shall receive  
20 credit on a full-time equivalency basis for students enrolled  
21 in their respective programs within adult correctional  
22 facilities. Funding recommendations to implement the  
23 provisions of this section shall be developed by the [~~board of~~  
24 ~~educational finance~~] higher education department or the public  
25 [~~school finance division of the department of finance and~~

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1 ~~administration]~~ education department as appropriate in the same  
2 manner that funding recommendations for similar programs at  
3 other institutions are calculated. "

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

6 "21-1-26.3. VERIFICATION FUNCTION. -- The [~~commission on~~]  
7 higher education department shall annually conduct special  
8 verifications of the institutions of higher education. The  
9 verifications shall include [~~but not be limited to~~]  
10 enrollments, fund balances, compliance with legislation,  
11 comparison of expenditures to budgets and other areas to be  
12 determined by the [~~commission]~~ department. Reports on the  
13 verifications shall be made annually to the department of  
14 finance and administration and the legislative finance  
15 committee. The [~~commission]~~ department shall consider the  
16 verification findings in making its annual recommendations to  
17 the executive and legislature for higher education funding. "

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

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

22 A. The [~~commission on~~] higher education department  
23 shall submit an annual accountability report to the governor  
24 and to the legislature by December 31. Prior to publication,  
25 the [~~commission on higher education]~~ department shall



1 distribute a draft of the accountability report to all public  
 2 post-secondary educational institutions and shall allow comment  
 3 upon the draft report.

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

- 8 (1) student progress and success;  
 9 (2) student access and diversity;  
 10 (3) affordability and cost of educational  
 11 services; and  
 12 (4) public and community service by the  
 13 institutions.

14 C. The [~~commission on higher education~~] department  
 15 shall make no funding recommendation, capital outlay  
 16 recommendation, distribution or certification on behalf of any  
 17 public post-secondary educational institution that has not  
 18 submitted the information required pursuant to this section."

19 Section 20. Section 21-1-26.9 NMSA 1978 (being Laws 1998,  
 20 Chapter 61, Section 2) is amended to read:

21 "21-1-26.9. LIMITATION-- [~~COMMISSION ON~~] HIGHER EDUCATION  
 22 DEPARTMENT-- REVIEW OF PROPOSED CAMPUSES. --Effective January 1,  
 23 1998, no new public post-secondary educational institution,  
 24 branch campus or off-campus instructional center shall be  
 25 created except as specifically created by the legislature. The

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1 [commission-on] higher education department shall review any  
2 proposal for the establishment of a new public post-secondary  
3 educational institution or campus and submit its  
4 recommendations to the legislature. In reviewing proposals,  
5 the [commission] department may consider:

6 A. provisions for a local mill levy of at least two  
7 mills;

8 B. population base to provide at least five hundred  
9 full-time students;

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

12 D. governance structure;

13 E. means for acquisition of property, including  
14 purchase, lease, donations or any other means;

15 F. eligibility and level of funding request of the  
16 state; and

17 G. brokering of extended learning provisions."

18 Section 21. Section 21-1-26.10 NMSA 1978 (being Laws 1999  
19 (1st S.S.), Chapter 6, Section 18) is amended to read:

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

12 [~~B. The commission on higher education shall~~  
 13 ~~administer the proceeds from supplemental severance tax bonds~~  
 14 ~~appropriated to the commission and distribute the proceeds to~~  
 15 ~~the respective governing bodies of the educational institutions~~  
 16 ~~with projects that are funded with the proceeds pursuant to the~~  
 17 ~~plan approved and adopted by the commission in Subsection A of~~  
 18 ~~this section.]"~~

19 Section 22. Section 21-1-26.11 NMSA 1978 (being Laws  
 20 2003, Chapter 394, Section 1) is amended to read:

21 "21-1-26.11. [~~COMMISSION ON~~] HIGHER EDUCATION  
 22 DEPARTMENT- -ADDITIONAL DUTIES. --In addition to the duties  
 23 imposed upon the [~~commission on~~] higher education department by  
 24 the Post-Secondary Educational Planning Act, the [~~commission~~]  
 25 department shall [~~have the responsibility of planning and~~

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1 ~~budgeting functions]~~ plan and budget for the statewide adult  
2 basic education program and ~~[authority to]~~ shall adopt and  
3 promulgate rules for all such adult educational programs. The  
4 ~~[commission will]~~ department shall establish a uniform protocol  
5 for identifying, ~~communicating with~~ and providing direct and  
6 equitable access to funding for eligible agencies, which  
7 include:

- 8 A. local educational agencies;
- 9 B. community-based organizations;
- 10 C. volunteer literacy organizations;
- 11 D. post-secondary institutions;
- 12 E. public or private nonprofit agencies;
- 13 F. public libraries;
- 14 G. public housing authorities; and
- 15 H. a consortium of agencies, organizations,

16 institutions, libraries or authorities as described in Section  
17 203 of Public Law 105. "

18 Section 23. Section 21-1-27 NMSA 1978 (being Laws 1965,  
19 Chapter 267, Section 1, as amended) is amended to read:

20 "21-1-27. ~~[COMMISSION ON]~~ HIGHER EDUCATION DEPARTMENT- -  
21 DISTRIBUTION OF AVAILABLE FUNDS. --In its distribution of  
22 available funds and its adjustment and approval of budgets, the  
23 ~~[commission on]~~ higher education department shall not, in any  
24 event or in any manner, substitute for public funds any gift,  
25 donation, private endowment, patent income or other gratuity

1 received or enjoyed by an institution in determining the  
2 adequate financing of an institution under its charge. "

3 Section 24. Section 21-1-33 NMSA 1978 (being Laws 1974,  
4 Chapter 30, Section 2, as amended) is amended to read:

5 "21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL. --

6 A. The [~~commission on~~] higher education department,  
7 in consultation with the state auditor, shall compile a manual  
8 prescribing a uniform classification of accounts and a uniform  
9 system for budgeting and reporting that includes the reporting  
10 of all funds available. The manual shall apply to all  
11 institutions enumerated in Article 12, Section 11 of the  
12 constitution of New Mexico and all their branches, except the  
13 New Mexico school for the blind and visually [~~handicapped~~]  
14 impaired and the New Mexico school for the deaf. The manual  
15 shall also apply to the [~~New Mexico junior college~~] two-year  
16 public post-secondary educational institutions.

17 B. The uniform system for budgeting and reporting  
18 shall require the submission of at least quarterly financial  
19 reports.

20 C. Following [~~approval~~] review by the legislative  
21 finance committee, the manual shall be reproduced by the  
22 [~~commission on higher education~~] department and filed as  
23 required by the State Rules Act. Upon the filing, the  
24 requirements set forth in the manual shall constitute rules of  
25 the [~~commission~~] department and have the force of law. The

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1 ~~[commission]~~ department shall review the manual annually.  
2 Sections of the manual may be revised or amended from time to  
3 time by the ~~[commission]~~ department, and revisions or  
4 amendments shall become effective upon ~~[approval]~~ review by the  
5 legislative finance committee and reproduction and filing as  
6 provided in this section.

7 D. All institutions to which this section and  
8 Section 21-1-32 NMSA 1978 apply shall comply with all of the  
9 requirements in the manual, submit reports to the ~~[commission~~  
10 ~~on higher education]~~ department as requested and furnish such  
11 additional information as the ~~[commission]~~ department deems  
12 necessary. "

13 Section 25. Section 21-1-34 NMSA 1978 (being Laws 1977,  
14 Chapter 330, Section 1, as amended) is amended to read:

15 "21-1-34. EDUCATIONAL TELEVISION EQUIPMENT REPLACEMENT  
16 FUND--DISBURSEMENT.--The "educational television equipment  
17 replacement fund" is created. The ~~[board of educational~~  
18 ~~finance]~~ higher education department shall develop criteria and  
19 promulgate ~~[regulations]~~ rules for the disbursement of money in  
20 this fund for the replacement of equipment at educational  
21 television stations operated by institutions of higher  
22 education. Disbursement shall be made to the institutions by  
23 warrant of the department of finance and administration upon  
24 vouchers signed by the ~~[executive]~~ secretary of ~~[the board of~~  
25 ~~educational finance]~~ higher education. It is the intent of the

1 legislature that in subsequent years a specific line item for  
 2 educational television replacement shall be included in the  
 3 appropriations recommended for educational television by the  
 4 [~~board of educational finance~~] department. The appropriation  
 5 to the fund in the General Appropriation Act of 1982 shall not  
 6 revert to the general fund at the end of any fiscal year, and  
 7 no subsequent appropriation to the fund shall revert unless it  
 8 contains the sentence "The appropriation to the educational  
 9 television equipment replacement fund shall revert."."

10 Section 26. Section 21-13-11 NMSA 1978 (being Laws 1963,  
 11 Chapter 17, Section 10, as amended) is amended to read:

12 "21-13-11. STANDARDS AND ACCREDITING OF COMMUNITY  
 13 COLLEGES. --

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

24 B. The [~~executive director of the commission on~~  
 25 ~~higher education~~] department shall annually inspect, or

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

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

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

23 Section 27. Section 21-21B-1 NMSA 1978 (being Laws 1982,  
24 Chapter 88, Section 1) is amended to read:

25 "21-21B-1. SHORT TITLE. -- ~~[This act]~~ Chapter 21, Article  
. 156544. 5



1 21B NMSA 1978 may be cited as the "Work-Study Act". "

2 Section 28. Section 21-21B-2 NMSA 1978 (being Laws 1982,  
3 Chapter 88, Section 2) is amended to read:

4 "21-21B-2. DEFINITIONS.--As used in the Work-Study Act:

5 A. "board" or "commission" or "department" means  
6 the [~~board of educational finance~~] higher education department;  
7 and

8 B. "institution" means any state post-secondary  
9 educational institution and any private nonprofit post-  
10 secondary educational institution within New Mexico. "

11 Section 29. TEMPORARY PROVISION--TRANSFERS.--

12 A. On the effective date of this act, all  
13 functions, appropriations, money, personnel, records, files,  
14 furniture, equipment and other property of the ~~commission~~ on  
15 higher education shall be transferred to the higher education  
16 department.

17 B. On the effective date of this act, all  
18 contractual obligations of the ~~commission~~ on higher education  
19 shall be binding on the higher education department.

20 C. On the effective date of this act, all  
21 references in law to the ~~commission~~ on higher education shall  
22 be deemed to be references to the higher education department  
23 and all references in law to the executive director of the  
24 ~~commission~~ on higher education shall be deemed to be references  
25 to the secretary of higher education.

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1 Section 30. REPEAL. --Sections 21-1-28 through 21-1-31  
2 NMSA 1978 (being Laws 1977, Chapter 246, Section 49, Laws 1971,  
3 Chapter 224, Section 1 and Laws 1951, Chapter 190, Sections 3  
4 and 4, as amended) are repealed.

5 Section 31. EMERGENCY. --It is necessary for the public  
6 peace, health and safety that this act take effect immediately.