AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING BACKGROUND CHECKS ON VOLUNTEERS WITH UNSUPERVISED ACCESS TO STUDENTS; AMENDING A SECTION OF THE SCHOOL PERSONNEL ACT.

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

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

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

A. An applicant for initial certification shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment

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1   Act.   Other information contained in the federal bureau of

2   investigation record, if supported by independent evidence,

3   may form the basis for the denial, suspension or revocation of

4   a certificate for good and just cause.   Records and any

5   related information shall be privileged and shall not be

6   disclosed to a person not directly involved in the

7   certification or employment decisions affecting the specific

8   applicant.   The applicant for initial certification shall pay

9   for the cost of obtaining the federal bureau of investigation

10   record.

11   B.   Local school boards shall develop policies and

12   procedures to require background checks on an applicant who

13   has been offered employment, a contractor, [or a] contractor's

14   employee or volunteer with unsupervised access to students.

15   An applicant for employment who has been initially certified

16   within twelve months of applying for employment with a local

17   school board shall not be required to submit to another

18   background check if the department of education has copies of

19   his federal bureau of investigation records on file.   An

20   applicant who has been offered employment, a contractor, [or

21   a] contractor's employee or volunteer with unsupervised access

22   to students shall provide two fingerprint cards or the

23   equivalent electronic fingerprints to the local school board

24   to obtain his federal bureau of investigation record.   The

25   applicant who has been offered employment or a contractor or

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1   contractor's employee <u>with unsupervised access to students</u> may

2   be required to pay for the cost of obtaining a background

3   check.   <u>Background checks on volunteers with unsupervised</u>

4   <u>access to students shall be conducted at the expense of the</u>

5   <u>local school district.</u> At the request of a local school

6   board, the department of education is authorized to release

7   copies of federal bureau of investigation records that are on

8   file with the department of education and that are not more

9   than twelve months old.   Convictions of felonies or

10   misdemeanors contained in the federal bureau of investigation

11   record shall be used in accordance with the Criminal Offender

12   Employment Act; provided that other information contained in

13   the federal bureau of investigation record, if supported by

14   independent evidence, may form the basis for the employment

15   decisions for good and just cause.   Records and any related

16   information shall be privileged and shall not be disclosed to

17   a person not directly involved in the employment <u>or volunteer</u>

18   decision affecting the specific applicant who has been offered

19   employment <u>or the</u> contractor, [~~or~~] contractor's employee <u>or</u>

20   <u>volunteer</u> with unsupervised access to students.

21   [~~C.   The department of education shall implement~~

22   ~~the provisions of Subsection A of this section on or before~~

23   ~~July 1, 1998.~~]"

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FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

March 3, 1999

Mr. Speaker:

Your **EDUCATION COMMITTEE,** to whom has been referred

HOUSE BILL 326

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

1. On page 3, line 1, after "employee" insert "or
volunteer".

2. On page 3, line 3, after "checks" strike the
remainder of the line, strike all of line 4, strike line 5
up to the period and insert in lieu thereof "shall at a
minimum be required of those volunteers with unsupervised
access to the students who provide services in a local
school district on more than two days per week during any
thirty-day calendar period. The background check may be
conducted at the expense of the department of public

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safety.",

and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

_____

Rick Miera, Chairman

Adopted _____   Not Adopted _____
        (Chief Clerk)   (Chief Clerk)

                        Date _____

underscored material = new
[bracketed material] = delete

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The roll call vote was <u>12</u> For <u>0</u> Against

Yes: 12

Excused: Begaye, Blanton, Burpo, Wright

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 11, 1999

Mr. Speaker:

   Your **JUDICIARY COMMITTEE,** to whom has been referred

HOUSE BILL 326, as amended

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

   1.   Strike all House Education Committee Amendments.

   2.   On page 3, line 20, after the period insert: "For the
purpose of this Act, volunteer does not include parent,
grandparent or legal guardian.".

underscored material = new
[bracketed material] = delete

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Respectfully submitted,

_____

R. David Pederson, Chairman

Adopted _____   Not Adopted _____

         (Chief Clerk)   (Chief Clerk)

               Date _____

The roll call vote was <u>10</u> For <u>0</u> Against

Yes: 10

Excused: Luna, Sanchez

Absent: None

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