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HOUSE BILL 10

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Brian K. Moore

AN ACT

**RELATING TO REGULATION AND LICENSING; PROVIDING FOR
CERTIFICATION OF LAW ENFORCEMENT OFFICERS EMPLOYED BY THE
SUPERINTENDENT OF REGULATION AND LICENSING.**

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

**Section 1. Section 9-16-6 NMSA 1978 (being Laws 1983,
Chapter 297, Section 22) is amended to read:**

"9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

**A. The superintendent is responsible to the
governor for the operation of the department. It is his duty
to manage all operations of the department and to administer
and enforce the laws with which he or the department is
charged.**

**B. To perform his duties, the superintendent has
every power expressly enumerated in the laws, whether granted**

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1 to the superintendent or the department or any division of the
2 department, except where authority conferred upon any division
3 is explicitly exempted from the superintendent's authority by
4 statute. In accordance with these provisions, the
5 superintendent shall:

6 (1) except as otherwise provided in the
7 Regulation and Licensing Department Act, exercise general
8 supervisory and appointing authority over all department
9 employees, subject to any applicable personnel laws and
10 regulations;

11 (2) delegate authority to subordinates as he
12 deems necessary and appropriate, clearly delineating such
13 delegated authority and the limitations thereto;

14 (3) organize the department into those
15 organizational units he deems will enable it to function most
16 efficiently, subject to any provisions of law requiring or
17 establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge his
21 duties, including among those personnel an appropriate number
22 of individuals as law enforcement officers subject to proper
23 certification pursuant to the Law Enforcement Training Act;

24 (5) take administrative action by issuing
25 orders and instructions, not inconsistent with the law, to

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1 [assure] ensure implementation of and compliance with the
2 provisions of law for whose administration or execution he is
3 responsible and to enforce those orders and instructions by
4 appropriate administrative action or actions in the courts;

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

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

13 (8) prepare an annual budget of the
14 department;

15 (9) provide cooperation, at the request of
16 heads of administratively attached agencies, in 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 (10) appoint, with the governor's consent, a

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1 "director" for each division. These appointed positions are
2 exempt from the provisions of the Personnel Act. Persons
3 appointed to these positions shall serve at the pleasure of the
4 superintendent;

5 (11) give bond in the penal sum of twenty-five
6 thousand dollars (\$25,000) and require directors to each give
7 bond in the penal sum of ten thousand dollars (\$10,000)
8 conditioned upon the faithful performance of duties, as
9 provided in the Surety Bond Act. The department shall pay the
10 costs of these bonds; and

11 (12) require performance bonds of such
12 department employees and officers as he deems necessary, as
13 provided in the Surety Bond Act. The department shall pay the
14 costs of these bonds.

15 C. The superintendent may apply for and receive,
16 with the governor's approval, in the name of the department any
17 public or private funds, including but not limited to United
18 States government funds, available to the department to carry
19 out its programs, duties or services.

20 D. The superintendent may make and adopt such
21 reasonable and procedural rules and regulations as may be
22 necessary to carry out the duties of the department and its
23 divisions. No rule or regulation promulgated by the director
24 of any division in carrying out the functions and duties of the
25 division shall be effective until approved by the

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1 superintendent, unless otherwise provided by statute. Unless
2 otherwise provided by statute, no regulation affecting any
3 person or agency outside the department shall be adopted,
4 amended or repealed without a public hearing on the proposed
5 action before the superintendent or a hearing officer
6 designated by him. The public hearing shall be held in Santa
7 Fe unless otherwise permitted by statute. Notice of the
8 subject matter of the regulation, the action proposed to be
9 taken, the time and place of the hearing, the manner in which
10 interested persons may present their views and the method by
11 which copies of the proposed regulation, proposed amendment or
12 repeal of an existing regulation may be obtained shall be
13 published once at least thirty days prior to the hearing date
14 in a newspaper of general circulation and mailed at least
15 thirty days prior to the hearing date to all persons who have
16 made a written request for advance notice of hearing. All
17 rules and regulations shall be filed in accordance with the
18 State Rules Act. "