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HOUSE BILL 230

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Al Park

AN ACT

RELATING TO EXECUTIVE ORGANIZATION; MERGING THE HIGHER
EDUCATION DEPARTMENT WITH THE DEPARTMENT OF FINANCE AND
ADMINISTRATION; CREATING A DIVISION; PROVIDING POWERS AND
DUTIES; PROVIDING FOR TRANSFER OF FUNCTIONS, PROPERTY,
CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.

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

SECTION 1. Section 9-6-3 NMSA 1978 (being Laws 1977,
Chapter 247, Section 3, as amended) is amended to read:
"9-6-3. DEPARTMENT OF FINANCE AND ADMINISTRATION--
CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND
CREATION OF DIVISIONS.--

A. The "department of finance and administration"
is created. The department shall consist of those divisions
created by law or executive order, as modified by executive

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1 order pursuant to Subsection C of this section, including but
2 not limited to:

- 3 (1) the board of finance division;
- 4 (2) the financial control division;
- 5 (3) the local government division;
- 6 (4) the management and contracts review
7 division; ~~and~~
- 8 (5) the state budget division; and
- 9 (6) the higher education division.

10 B. The secretary is empowered to organize the
11 department and the divisions thereof specified in Subsection A
12 of this section and may transfer or merge functions between
13 divisions in the interest of efficiency and economy.

14 C. The governor is empowered to merge divisions of
15 the department or to create additional divisions by executive
16 order in the interest of efficiency and economy."

17 SECTION 2. A new section of the Department of Finance and
18 Administration Act is enacted to read:

19 "[NEW MATERIAL] HIGHER EDUCATION DIVISION DUTIES.--
20 Consistent with constitutional provisions relating to the
21 control and management of the educational institutions
22 enumerated in Article 12, Section 11 of the constitution of New
23 Mexico, the department shall:

24 A. cooperate with colleges and universities to
25 create a statewide public agenda to meet higher education needs

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1 and goals;

2 B. periodically study and report to the governor
3 and the legislative finance committee on enrollment capacity
4 needs over a ten-year period, based on state demographic
5 models, academic program demands, institutional competencies
6 and infrastructure, state work force needs, economic
7 development goals and other factors; and

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

13 SECTION 3. Section 6-24-23 NMSA 1978 (being Laws 1995,
14 Chapter 155, Section 23, as amended) is amended to read:

15 "6-24-23. LOTTERY TUITION FUND CREATED--PURPOSE.--

16 A. The "lottery tuition fund" is created in the
17 state treasury. The fund shall be administered by the
18 [~~commission on~~] higher education division of the department of
19 finance and administration. Earnings from investment of the
20 fund shall accrue to the credit of the fund. Any balance in
21 the fund at the end of any fiscal year shall remain in the fund
22 for appropriation by the legislature as provided in this
23 section.

24 B. Money in the lottery tuition fund is
25 appropriated to the [~~commission on higher education~~] division

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1 for distribution to New Mexico's public post-secondary
2 educational institutions to provide tuition assistance for New
3 Mexico resident undergraduates as provided by law."

4 SECTION 4. Section 7-37-8 NMSA 1978 (being Laws 1978,
5 Chapter 128, Section 1, as amended) is amended to read:

6 "7-37-8. SCHOOL TAX RATES.--No later than August 15 of
7 each year, the [~~state department of~~] public education
8 department shall submit to the secretary of finance and
9 administration the property tax rates for the succeeding tax
10 year for each school district and the [~~commission on~~] higher
11 education division of the department of finance and
12 administration shall submit to the secretary of finance and
13 administration the property tax rates for the succeeding tax
14 year for each technical and vocational district, [~~area~~
15 ~~vocational school district, junior~~] community college district
16 and branch community college district. The rates required to
17 be submitted pursuant to this section shall separately state by
18 county and by school district the rate to be levied for
19 operational purposes and the rate to be levied for payment of
20 principal and interest on general obligation debt issued or
21 entered into by the district."

22 SECTION 5. Section 9-15D-2 NMSA 1978 (being Laws 2009,
23 Chapter 275, Section 2) is amended to read:

24 "9-15D-2. DEFINITIONS.--As used in the Green Jobs Act:

25 A. "department" or "division" means the higher

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1 education division of the department of finance and
2 administration;

3 B. "fund" means the green jobs fund;

4 C. "green industries" means industries that
5 contribute directly to preserving or enhancing environmental
6 quality by reducing waste and pollution or producing sustainable
7 products using sustainable processes and materials and that
8 provide opportunities for advancement along a career track of
9 increasing skills and wages. Green industries include:

10 (1) energy system retrofits to increase energy
11 efficiency and conservation;

12 (2) production and distribution of biofuels,
13 including vehicle retrofits for biofuels;

14 (3) building design and construction that meet
15 the equivalent of best available technology in energy and
16 environmental design standards;

17 (4) organic and community food production;

18 (5) manufacture of products from nontoxic,
19 environmentally certified or recycled materials;

20 (6) manufacture and production of sustainable
21 technologies, including solar panels, wind turbines and fuel
22 cells;

23 (7) solar technology installation and
24 maintenance;

25 (8) recycling, green composting and large-

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1 scale reuse of construction and demolition materials and debris;
2 and

3 (9) water retrofits to increase water
4 efficiency and conservation;

5 D. "green jobs training programs" means those
6 programs implemented by educational institutions related to
7 training individuals to work in green industries and to ensure
8 that appropriate support services are provided;

9 E. "support services" means those services that
10 provide trainees with the opportunity to participate in green
11 jobs training programs, including:

- 12 (1) child care;
- 13 (2) tuition;
- 14 (3) materials needed for training programs;
- 15 (4) counseling and mentoring services;
- 16 (5) internships; or
- 17 (6) job placement programs; and

18 F. "target populations" means disadvantaged
19 individuals, including:

- 20 (1) low-income individuals;
- 21 (2) veterans;
- 22 (3) formerly incarcerated, nonviolent
23 offenders;
- 24 (4) tribal and rural constituencies;
- 25 (5) workers adversely affected by changing

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1 national or state energy policy;

2 (6) at-risk youth;

3 (7) unemployed youth and adults;

4 (8) high school dropouts; or

5 (9) single mothers."

6 SECTION 6. Section 9-27-9 NMSA 1978 (being Laws 2007,
7 Chapter 290, Section 9, as amended) is amended to read:

8 "9-27-9. INFORMATION TECHNOLOGY COMMISSION--CREATION--
9 POWERS AND DUTIES.--

10 A. The "information technology commission" is
11 created. The commission consists of fifteen voting members as
12 follows:

13 (1) four members appointed by the governor,
14 who are not from the higher education division of the department
15 of finance and administration or the public education
16 department;

17 (2) one staff member with telecommunications
18 regulatory experience appointed by the chair of the public
19 regulation commission;

20 (3) two members representing education, one
21 appointed by the [~~secretary~~] director of the higher education
22 division and one appointed by the secretary of public education;

23 (4) two members appointed by the governor to
24 represent local government, one appointment to be selected by
25 the governor from a list of three names provided by the New

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1 Mexico association of counties and one appointment to be
2 selected by the governor from a list of three names provided by
3 the New Mexico municipal league;

4 (5) two members appointed at-large by the
5 governor;

6 (6) two members appointed by the governor to
7 represent local telecommunications service providers; and

8 (7) two members from the national laboratories
9 appointed by the respective laboratory director.

10 B. Additionally, the following nonvoting members may
11 serve on the commission:

12 (1) two members from the judicial information
13 systems council appointed by the chair of that council;

14 (2) one staff member from the legislative
15 council service and one staff member from the legislative
16 finance committee, appointed by their respective directors; and

17 (3) the secretary as chief information
18 officer.

19 C. No appointee or designee of the commission from a
20 state agency shall be less than the deputy head of the agency.

21 D. A registered lobbyist under the Lobbyist
22 Regulation Act shall not serve on the commission while
23 registered as a lobbyist or for one year after terminating work
24 as a lobbyist in compliance with the termination requirements of
25 the Lobbyist Regulation Act.

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1 E. The commission shall appoint a voting member to
2 represent the commission on the department's committee or other
3 body that certifies information technology projects.

4 F. The members of the commission who are not
5 supported by public money, or their designees, may receive per
6 diem and mileage pursuant to the Per Diem and Mileage Act, but
7 shall receive no other compensation, perquisite or allowance.

8 G. The commission shall elect a chair and vice chair
9 from the active voting membership of the commission for two-year
10 terms.

11 H. The department shall provide staff to the
12 commission.

13 I. The commission shall meet at least quarterly to
14 review and approve:

15 (1) the development and implementation of the
16 state information technology strategic plan;

17 (2) critical information technology
18 initiatives for the state;

19 (3) identification of information technology
20 needs of state agencies;

21 (4) strategies for identifying information
22 technology projects that affect multiple agencies;

23 (5) the state information architecture and the
24 state information technology strategic plan for updates and
25 compliance by executive agencies;

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1 (6) proposed rules by the secretary; and
2 (7) guidelines for mediation of disputes
3 between an executive agency and the secretary as chief
4 information officer."

5 SECTION 7. Section 10-9-5 NMSA 1978 (being Laws 1978,
6 Chapter 96, Section 1, as amended) is amended to read:

7 "10-9-5. PUBLIC OFFICERS AND PUBLIC EMPLOYEES--EXECUTIVE
8 BRANCH--ANNUAL EXEMPT SALARIES PLAN.--

9 A. The department of finance and administration
10 shall prepare, by December 1 of each year, an exempt salaries
11 plan for the governor's approval. The plan shall specify salary
12 ranges for the following public officer and public employee
13 positions of the executive branch of government:

- 14 (1) members of boards and commissions
15 appointed by the governor;
- 16 (2) heads of agencies or departments appointed
17 by the governor;
- 18 (3) heads of agencies or departments appointed
19 by the respective boards and commissions of the agencies;
- 20 (4) directors of department divisions;
- 21 (5) employees in the governor's office;
- 22 (6) positions in the state militia and the
23 commissioned officers of the New Mexico state police division of
24 the department of public safety;
- 25 (7) assistants and secretaries in the offices

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1 of each official covered by Paragraphs (2), (3) and (10) of this
2 subsection;

3 (8) positions of a professional or scientific
4 nature [~~which~~] that are temporary in nature;

5 (9) state employees whose positions the
6 personnel board has classified as policymaking positions and
7 exempt employees of elective public officials; and

8 (10) secretaries of departments appointed by
9 the governor.

10 B. Excluded from the provisions of this section are
11 employees of the [~~commission on higher education and employees~~
12 ~~of~~] state educational institutions named in Article 12, Section
13 11 of the constitution of New Mexico.

14 C. The exempt salaries plan for the ensuing fiscal
15 year, as prepared by the department of finance and
16 administration and approved by the governor, shall be published
17 as a part of the executive budget document presented to the
18 legislature at its next regular session following the
19 preparation of the plan.

20 D. Upon the governor's approval, the plan shall take
21 effect at the beginning of the subsequent fiscal year."

22 **SECTION 8.** Section 12-6-14 NMSA 1978 (being Laws 1969,
23 Chapter 68, Section 14, as amended) is amended to read:

24 "12-6-14. CONTRACT AUDITS.--

25 A. The state auditor shall notify each agency

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1 designated for audit by an independent auditor, and the agency
2 shall enter into a contract with an independent auditor of its
3 choice in accordance with procedures prescribed by rules of the
4 state auditor; provided, however, that an agency subject to
5 oversight by the [~~state department of~~] public education [~~or the~~
6 ~~commission on higher education~~] department shall receive
7 approval from its oversight agency prior to submitting a
8 recommendation for an independent auditor of its choice. The
9 state auditor may select the auditor for an agency that has not
10 submitted a recommendation within sixty days of notification by
11 the state auditor to contract for the year being audited, and
12 the agency being audited shall pay the cost of the audit. Each
13 contract for auditing entered into between an agency and an
14 independent auditor shall be approved in writing by the state
15 auditor. Payment of public funds may not be made to an
16 independent auditor unless a contract is entered into and
17 approved as provided in this section.

18 B. The state auditor or personnel of [~~his~~] the state
19 auditor's office designated by [~~him~~] the state auditor shall
20 examine all reports of audits of agencies made pursuant to
21 contract. Based upon demonstration of work in progress, the
22 state auditor may authorize progress payments to the independent
23 auditor by the agency being audited under contract. Final
24 payment for services rendered by an independent auditor shall
25 not be made until a determination and written finding that the

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1 audit has been made in a competent manner in accordance with the
2 provisions of the contract and applicable rules by the state
3 auditor."

4 SECTION 9. Section 13-1B-6 NMSA 1978 (being Laws 1992,
5 Chapter 58, Section 6, as amended) is amended to read:

6 "13-1B-6. LOAN PROGRAM--DUTIES OF THE DEPARTMENT.--

7 A. The department shall:

8 (1) administer the provisions of the
9 Alternative Fuel Acquisition Act, except that the provisions of
10 Section 13-1B-3 NMSA 1978 shall be administered by the
11 [~~commission on higher education and the state department of~~]
12 public education department for [~~their respective programs~~]
13 public schools;

14 (2) establish a program to make loans to the
15 agencies and departments of state government, political
16 subdivisions and educational institutions, individually or
17 jointly, to facilitate the acquisition of vehicles of the
18 agencies and departments of state government, political
19 subdivisions and educational institutions in accordance with the
20 Alternative Fuel Acquisition Act;

21 (3) review, evaluate and approve or reject all
22 loan applications submitted to obtain loans from the fund;

23 (4) submit an annual report to the governor
24 and the legislature evaluating the status and the effectiveness
25 of the Alternative Fuel Acquisition Act; and

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1 (5) have an annual audit performed on the
2 administration of the fund.

3 B. The department shall adopt rules [~~and~~
4 ~~regulations~~] necessary to carry out the purposes of the
5 Alternative Fuel Acquisition Act, including rules [~~and~~
6 ~~regulations~~] governing:

7 (1) the procedures and format for submitting
8 loan applications to the department to obtain a loan from the
9 fund;

10 (2) the criteria to review, evaluate and
11 approve loan applications;

12 (3) the procedure to determine the
13 distribution of money in the fund; and

14 (4) the procedure to determine and notify an
15 applicant of the progress on a loan application."

16 SECTION 10. Section 21-1-1.2 NMSA 1978 (being Laws 2007,
17 Chapter 227, Section 1, as amended) is amended to read:

18 "21-1-1.2. DUAL CREDIT FOR HIGH SCHOOL AND POST-SECONDARY
19 CLASSES.--

20 A. As used in this section:

21 (1) "bureau of Indian education high school"
22 means a school located in New Mexico that is under the control
23 of the bureau of Indian education of the United States
24 department of the interior;

25 (2) "dual credit program" means a program that

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1 allows high school students to enroll in college-level courses
2 offered by a public post-secondary educational institution or
3 tribal college that may be academic or career-technical but not
4 remedial or developmental, and simultaneously to earn credit
5 toward high school graduation and a post-secondary degree or
6 certificate; and

7 (3) "tribal college" means a tribally,
8 federally or congressionally chartered post-secondary
9 educational institution located in New Mexico that is accredited
10 by the north central association of colleges and schools.

11 B. To be eligible to participate in a dual credit
12 program, the student shall:

13 (1) except as provided in Subsection C of this
14 section, be enrolled in a regular public school, charter school,
15 state-supported school or bureau of Indian education high school
16 in one-half or more of the minimum course requirements approved
17 by the public education department for public school students;
18 and

19 (2) obtain permission from a school counselor;
20 the school principal; or the head administrator of a charter
21 school, state-supported school or bureau of Indian education
22 high school prior to enrolling in a dual credit course.

23 C. A student who has met the eligibility criteria
24 provided for in Subsection B of this section in a fall or winter
25 semester and who has not graduated or earned a general

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1 educational development certificate may take courses for dual
2 credit during the immediately succeeding summer semester.

3 D. The school district, charter school,
4 state-supported school or bureau of Indian education high school
5 that the student attends shall pay the cost of the required
6 textbooks and other course supplies for the post-secondary
7 course the student is enrolled in through purchase arrangements
8 with the bookstore at the public post-secondary educational
9 institution or tribal college or through other cost-efficient
10 methods. The student shall return the textbooks and unused
11 course supplies to the school district, charter school, state-
12 supported school or bureau of Indian education high school when
13 the student completes the course or withdraws from the course.

14 E. A public post-secondary educational institution
15 or tribal college that participates in a dual credit program
16 shall waive all general fees for dual credit courses.

17 F. The higher education division of the department
18 of finance and administration shall revise procedures in the
19 higher education funding formula to address enrollments in dual
20 credit courses and to encourage institutions to waive tuition
21 for high school students taking those courses.

22 G. The higher education [~~department~~] division and
23 the public education department shall adopt and promulgate rules
24 to implement a dual credit program that specify:

25 (1) post-secondary courses that are eligible

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1 for dual credit;

2 (2) conditions that apply, including:

3 (a) the required academic standing and
4 conduct of students enrolled in dual credit courses;

5 (b) the semesters in which dual credit
6 courses may be taken;

7 (c) the nature of high school credit
8 earned;

9 (d) any caps on the number of courses,
10 location of courses and provision of transcripts; and

11 (e) an appeals process for a student who
12 is denied permission to enroll in a dual credit course;

13 (3) accommodations or other arrangements
14 applicable to special education students;

15 (4) the contents of the uniform master
16 agreement, developed in collaboration with school districts,
17 charter schools, state-supported schools, bureau of Indian
18 education high schools, public post-secondary educational
19 institutions and tribal colleges, that govern the roles,
20 responsibilities and liabilities of the school district, charter
21 school, state-supported school or bureau of Indian education
22 high school; the public post-secondary educational institution
23 or tribal college; and the student and the student's family;

24 (5) provisions for expanding dual credit
25 opportunities through distance learning and other methods;

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1 (6) the means by which public high schools are
2 required to inform students and parents about opportunities to
3 participate in dual credit programs during student advisement,
4 academic support and formulation of annual next step plans, as
5 well as other methods; and

6 (7) provisions for collecting and
7 disseminating annual data, including:

8 (a) the number of students taking dual
9 credit courses;

10 (b) the participating school districts,
11 charter schools, state-supported schools, bureau of Indian
12 education high schools, public post-secondary educational
13 institutions and tribal colleges;

14 (c) the courses taken and grades earned;

15 (d) the high school graduation rates for
16 participating school districts, charter schools, state-supported
17 schools and bureau of Indian education high schools;

18 (e) the public post-secondary educational
19 institutions and tribal colleges that participating students
20 ultimately attend; and

21 (f) the cost of providing dual credit
22 courses.

23 H. The higher education [~~department~~] division and
24 the public education department shall evaluate the dual credit
25 program in terms of its accessibility to students statewide and

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1 its effect on:

2 (1) student achievement in secondary
3 education;

4 (2) student enrollment and completion of
5 higher education; and

6 (3) school districts, charter schools, state-
7 supported schools, bureau of Indian education high schools,
8 public post-secondary educational institutions and tribal
9 colleges.

10 I. The [~~departments~~] division and the department
11 shall make an annual report, including recommendations, to the
12 governor and the legislature.

13 J. The provisions of this section do not apply to
14 the New Mexico military institute."

15 SECTION 11. Section 21-1-4 NMSA 1978 (being Laws 1971,
16 Chapter 235, Section 1, as amended) is amended to read:

17 "21-1-4. TUITION AND GENERAL FEE CHARGES--
18 DEFINITIONS.--

19 A. The state educational institutions set forth in
20 Article 12, Section 11 of the constitution of New Mexico and
21 their branches, community colleges as provided in Chapter 21,
22 Article 13 NMSA 1978 and technical and vocational institutes as
23 provided in Chapter 21, Article 16 NMSA 1978 shall charge
24 tuition, which is in addition to general or other earmarked
25 fees, as provided by law.

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1 B. "Tuition" means the amount of money charged to
2 students for instructional services, which may be charged per
3 term, per course or per credit. "Tuition" does not include
4 required general or other fees.

5 C. "General fee" means a fixed sum charged to
6 students for items not covered by tuition and required of such
7 a proportion of all students that the student who does not pay
8 the charge is an exception. General fees include fees for
9 matriculation, library services, student activities, student
10 union services, student health services, debt service and
11 athletics. An institution may charge fees in addition to
12 general fees that are course-specific or that pertain to a
13 smaller proportion of students.

14 D. During the regular academic year, "full-time
15 student" means a student who is taking twelve or more credit
16 hours in one semester or quarter. Full-time students during
17 the academic year shall be charged tuition at rates provided by
18 law.

19 E. During the summer session, "full-time student"
20 means a student who is taking at least a minimum number of
21 credit hours, which minimum is in the same proportion to twelve
22 credit hours as the duration and normal credit-hour load of the
23 summer session in the particular institution is to the duration
24 and normal credit-hour load of the institution's regular
25 semester or quarter. Full-time students in the summer session

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1 shall be charged tuition at resident and nonresident rates in
2 each institution, which rates shall be in the same proportion
3 to the full-time resident and nonresident rates of that
4 institution for the regular semester or quarter as the minimum
5 number of credit hours is to twelve hours.

6 F. "Part-time student" means a student who is
7 taking fewer than the minimum number of credit hours in a
8 semester, quarter or summer session required for full-time
9 student status. Part-time students shall be charged tuition at
10 rates per semester credit hour or quarter credit hour as
11 provided by law.

12 G. The higher education division of the department
13 of finance and administration shall define resident and
14 nonresident students for the purpose of administering tuition
15 charges in accordance with the constitution and statutes of the
16 state and after consultation with the appropriate officials of
17 the institutions concerned. Each institution shall use the
18 uniform definitions so established in assessing and collecting
19 tuition charges from students."

20 SECTION 12. Section 21-1-6 NMSA 1978 (being Laws 1975,
21 Chapter 308, Section 1, as amended) is amended to read:

22 "21-1-6. WAIVING OF NONRESIDENT DIFFERENTIAL IN TUITION
23 RATES ON A RECIPROCAL BASIS WITH OTHER STATES.--The [~~commission~~
24 ~~er~~] higher education division of the department of finance and
25 administration shall identify those circumstances [~~where~~] in

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1 which the waiving of the nonresident differential in tuition
2 rates, on a reciprocal basis with other states, including the
3 states of the foreign country contiguous to New Mexico, would
4 enhance educational opportunities for New Mexico residents.
5 Relative to the identified circumstances, the [~~commission~~
6 division] shall negotiate with the other states involved with
7 the objective of establishing reciprocal agreements for the
8 waiving of the nonresident differential for New Mexico
9 residents attending institutions in other states in exchange
10 for New Mexico institutions waiving the nonresident
11 differential for residents of the other states. Upon
12 successful completion of the negotiations, the [~~commission~~
13 division] may identify those classes and numbers of New Mexico
14 residents whose educational opportunities would be enhanced and
15 the number and classes of nonresident students for whom the
16 nonresident differential is to be waived by the New Mexico
17 institutions and may direct that the institutions grant such
18 waivers. The [~~commission~~] division shall establish
19 [~~regulations~~] rules for the administration of the waivers and
20 for the reporting of the cases in which the waivers are given."

21 SECTION 13. Section 21-1-21.1 NMSA 1978 (being Laws 2001,
22 Chapter 319, Section 22) is amended to read:

23 "21-1-21.1. STATE EDUCATIONAL INSTITUTIONS--ADEQUATE
24 PARKING.--The staff architect of a university, or the
25 [~~commission-on~~] higher education division of the department of

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1 finance and administration in the case of state educational
2 facilities that do not employ a staff architect, shall review
3 all plans for the construction or major enlargement of a state
4 educational facility prior to the execution of a contract for
5 such work and shall certify to the state board of finance that
6 adequate parking is provided for the use of staff employed in
7 the facility, students who attend classes or events in the
8 facility and members of the public reasonably expected to enter
9 the facility. If adequate parking is not provided for, no
10 contract may be entered into."

11 SECTION 14. Section 21-1-26 NMSA 1978 (being Laws 1951,
12 Chapter 190, Section 1, as amended) is amended to read:

13 "21-1-26. HIGHER EDUCATION [~~DEPARTMENT~~] DIVISION--GENERAL
14 POWERS.--

15 A. The higher education division of the department
16 of finance and administration shall be concerned with the
17 problems of finance of those educational institutions
18 designated in Article 12, Section 11 of the constitution of New
19 Mexico and other public post-secondary educational institutions
20 in the state. The [~~department~~] division shall:

21 (1) be concerned with the adequate financing
22 of these institutions and with the equitable distribution of
23 available funds among them;

24 (2) receive, adjust and approve the budgets
25 submitted by these institutions prior to the submission of

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1 these budgets to the state budget division of the department of
2 finance and administration;

3 (3) develop and maintain programs, on a
4 regular basis, for the orientation and in-service education of
5 members of the boards of regents of the various educational
6 institutions designated in Article 12, Section 11 of the
7 constitution of New Mexico and the governing bodies of other
8 public post-secondary educational institutions in the state;

9 (4) analyze the financial impact of each new
10 degree program of each public post-secondary educational
11 institution as part of the [~~department's~~] division's review of
12 the institution's operating budget; and

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

15 B. Effective July 1, 2005, all new state-funded
16 baccalaureate, graduate and professional degree programs shall
17 be offered by public four-year educational institutions and all
18 new associate degree programs shall be offered by public post-
19 secondary educational institutions only after a timely and
20 thorough consultation with and review by the [~~department~~]
21 division.

22 C. Notwithstanding any other provisions of law, the
23 higher education [~~department~~] division may be designated by the
24 governor to administer funds furnished under acts of congress
25 for post-secondary educational institutions, except for funds

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1 specifically appropriated or otherwise designated for those
2 educational institutions enumerated in Article 12, Section 11
3 of the constitution of New Mexico.

4 D. The higher education [~~department~~] division is
5 also charged with oversight of all private post-secondary
6 educational institutions operating within the state."

7 SECTION 15. Section 21-1-26.1 NMSA 1978 (being Laws 1980,
8 Chapter 145, Section 2, as amended) is amended to read:

9 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the duties
10 imposed upon the higher education [~~department~~] division of the
11 department of finance administration by the Post-Secondary
12 Educational Planning Act, the [~~department~~] division shall
13 perform the same planning and budgeting functions for the
14 university of New Mexico [~~hospital~~] health sciences center as
15 it performs for other post-secondary educational institutions."

16 SECTION 16. Section 21-1-26.2 NMSA 1978 (being Laws 1981,
17 Chapter 69, Section 1, as amended) is amended to read:

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

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1 section shall be developed by the [~~higher education department~~]
2 division or the public education department as appropriate in
3 the same manner that funding recommendations for similar
4 programs at other institutions are calculated."

5 SECTION 17. Section 21-1-26.3 NMSA 1978 (being Laws 1986,
6 Chapter 24, Section 3, as amended) is amended to read:

7 "21-1-26.3. VERIFICATION FUNCTION.--The higher education
8 division of the department of finance and administration shall
9 annually conduct special verifications of the institutions of
10 higher education. The verifications shall include enrollments,
11 fund balances, compliance with legislation, comparison of
12 expenditures to budgets and other areas to be determined by the
13 [~~department~~] division. Reports on the verifications shall be
14 made annually to the department of finance and administration
15 and the legislative finance committee. The [~~department~~]
16 division shall consider the verification findings in making its
17 annual recommendations to the executive and legislature for
18 higher education funding."

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

22 "21-1-26.7. ANNUAL ACCOUNTABILITY REPORT.--

23 A. The higher education division of the department
24 of finance and administration shall submit an annual
25 accountability report to the governor and to the legislature by

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1 December 31. Prior to publication, the [~~department~~] division
2 shall distribute a draft of the accountability report to all
3 public post-secondary educational institutions and shall allow
4 comment upon the draft report.

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

9 (1) student progress and success;

10 (2) student access and diversity;

11 (3) affordability and cost of educational
12 services;

13 (4) public and community service by the
14 institution; and

15 (5) faculty, compensation and benefits
16 practices, including:

17 (a) number and percentage of part-time
18 and full-time faculty;

19 (b) per-credit-hour pay rate for full-
20 time instructors or lecturers and per-credit-hour pay rate for
21 part-time faculty;

22 (c) percent salary increase for full-
23 time faculty and percent salary increase for part-time faculty;
24 and

25 (d) description of the institution's

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1 policy for offering benefits to full-time faculty and to part-
2 time faculty.

3 C. The [~~department~~] division shall make no funding
4 recommendation, capital outlay recommendation, distribution or
5 certification on behalf of any public post-secondary
6 educational institution that has not submitted the information
7 required pursuant to this section."

8 SECTION 19. Section 21-1-26.10 NMSA 1978 (being Laws 1999
9 (1st S.S.), Chapter 6, Section 18, as amended) is amended to
10 read:

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

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1 SECTION 20. Section 21-1-26.11 NMSA 1978 (being Laws
2 2003, Chapter 394, Section 1, as amended) is amended to read:

3 "21-1-26.11. HIGHER EDUCATION [~~DEPARTMENT~~] DIVISION--
4 ADDITIONAL DUTIES.--In addition to the duties imposed upon the
5 higher education division of the department of finance and
6 administration by the Post-Secondary Educational Planning Act,
7 the [~~department~~] division shall plan and budget for the
8 statewide adult basic education program and shall adopt and
9 promulgate rules for all such adult educational programs. The
10 [~~department~~] division shall establish a uniform protocol for
11 identifying, communicating with and providing direct and
12 equitable access to funding for eligible agencies, which
13 include:

- 14 A. local educational agencies;
- 15 B. community-based organizations;
- 16 C. volunteer literacy organizations;
- 17 D. post-secondary institutions;
- 18 E. public or private nonprofit agencies;
- 19 F. public libraries;
- 20 G. public housing authorities; and
- 21 H. a consortium of agencies, organizations,
22 institutions, libraries or authorities as described in Section
23 203 of Public Law 105."

24 SECTION 21. Section 21-1-26.12 NMSA 1978 (being Laws
25 2005, Chapter 289, Section 14) is amended to read:

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1 "21-1-26.12. EDUCATIONAL NEEDS AND GUIDELINES--
2 ACCOUNTABILITY REPORTS.--

3 A. The higher education division of the department
4 of finance and administration shall, through consultation with
5 all public post-secondary educational institutions, develop and
6 publish a statement of statewide educational needs and
7 guidelines to assist the institutions in the development or
8 modification of institutional strategic plans. The
9 [~~department~~] division may conduct studies of statewide
10 educational needs and make recommendations to the governor, the
11 legislature and public post-secondary educational institutions.

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

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

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

19 SECTION 22. Section 21-1-27 NMSA 1978 (being Laws 1965,
20 Chapter 267, Section 1, as amended) is amended to read:

21 "21-1-27. HIGHER EDUCATION [~~DEPARTMENT~~] DIVISION--
22 DISTRIBUTION OF AVAILABLE FUNDS.--In its distribution of
23 available funds and its adjustment and approval of budgets, the
24 higher education division of the department of finance and
25 administration shall not, in any event or in any manner,

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1 substitute for public funds any gift, donation, private
2 endowment, patent income or other gratuity received or enjoyed
3 by an institution in determining the adequate financing of an
4 institution under its charge."

5 SECTION 23. Section 21-1-27.1 NMSA 1978 (being Laws 2002,
6 Chapter 31, Section 1, as amended) is amended to read:

7 "21-1-27.1. HIGHER EDUCATION ENDOWMENT FUND CREATED.--

8 A. The "higher education endowment fund" is created
9 in the state treasury. The fund shall consist of
10 appropriations, income from investment of the fund, gifts,
11 grants, donations and bequests.

12 B. The higher education endowment fund shall be
13 administered by the higher education division of the department
14 of finance and administration. Money shall be disbursed only
15 on warrant of the secretary of finance and administration upon
16 voucher signed by the [~~secretary~~] director of [~~higher~~
17 ~~education~~] the division or the [~~secretary's~~] director's
18 authorized representative.

19 C. Money shall be disbursed from the higher
20 education endowment fund only to establish endowments at public
21 post-secondary educational institutions as provided in this
22 section. An institution shall not receive a disbursement for
23 an endowment until that institution has notified the
24 [~~department~~] division that it has received matching funds for
25 the endowment from other than governmental sources in the

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1 amount specified in this section.

2 D. Money in the higher education endowment fund is
3 appropriated to the [~~department~~] division to be disbursed for
4 endowment purposes, including endowed chairs, lectureships,
5 professorships, scholarships for students, graduate
6 assistantships and faculty development programs that will
7 enhance the quality of public post-secondary education in New
8 Mexico. The [~~department~~] division, by rule, shall establish
9 procedures for disbursing money from the fund. Not less than
10 five percent of each institution's total endowment effort
11 resulting from amounts specified in this section shall address
12 one or more of the governor's higher education initiatives.

13 E. Appropriations to the higher education endowment
14 fund shall be disbursed to public post-secondary educational
15 institutions based on the following distribution proportions
16 and matching requirements:

17 (1) the university of New Mexico shall be
18 entitled to draw eighteen percent of each appropriation and New
19 Mexico state university and the New Mexico institute of mining
20 and technology shall each be entitled to draw sixteen percent
21 of each appropriation; provided that no disbursement shall be
22 made pursuant to this paragraph until an institution has shown
23 to the satisfaction of the [~~department~~] division that it has
24 received matching funds in an amount equal to at least fifty
25 percent of the disbursement;

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1 (2) the university of New Mexico health
2 sciences center shall be entitled to draw twelve percent of
3 each appropriation; provided that no disbursement shall be made
4 pursuant to this paragraph until the center has shown to the
5 satisfaction of the [~~department~~] division that it has received
6 matching funds in an amount equal to at least fifty percent of
7 the disbursement;

8 (3) New Mexico highlands university, eastern
9 New Mexico university, western New Mexico university and
10 northern New Mexico college shall each draw an equal share of a
11 total of eighteen percent of each appropriation; provided that
12 no disbursement shall be made pursuant to this paragraph until
13 an institution has shown to the satisfaction of the
14 [~~department~~] division that it has received matching funds in an
15 amount equal to at least forty percent of the disbursement; and

16 (4) the New Mexico military institute,
17 independent community colleges, branch community colleges and
18 technical and vocational institutes may draw a share of a total
19 of twenty percent of each appropriation using a distribution
20 formula approved by the [~~higher education department~~] division;
21 provided that no disbursement shall be made pursuant to this
22 paragraph until an institution has shown to the satisfaction of
23 the [~~department~~] division that it has received matching funds
24 in an amount equal to at least thirty percent of the
25 disbursement.

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1 F. Distributions from the higher education
2 endowment fund are made over a three-year cycle with unmatched
3 balances reverting to the general fund at the end of the third
4 fiscal year. The [~~department~~] division shall notify each
5 eligible institution of the specific amount it may match during
6 the first two fiscal years of each three-year cycle.
7 Allocations not matched during the first two years of each
8 cycle are made available for supplemental or second round
9 matching by other eligible public post-secondary educational
10 institutions during the third fiscal year. Four-year public
11 post-secondary educational institutions may apply for
12 supplemental matches to amounts originally designated for other
13 four-year institutions. Two-year public post-secondary
14 educational institutions may apply for supplemental matches to
15 amounts originally designated for other two-year institutions.
16 Successful submissions for supplemental matches shall be
17 determined by the [~~department~~] division in a manner that
18 affords equitable participation over time based on guidelines
19 for supplemental distributions from the fund.

20 G. The endowment funds of the institutions shall
21 not be expended but shall be invested by the institutions in
22 accordance with the prudent investor rule and in accordance
23 with the provisions of Section 21-1-38 NMSA 1978. The income
24 from the investments shall be used by the institutions to
25 provide funding for chairs, lectureships, professorships,

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1 scholarships for students, graduate assistantships and faculty
2 development programs, including paying all or a portion of the
3 salary of the faculty member or the expenses necessary to
4 support associated academic activities.

5 H. The [~~department~~] division shall report annually
6 to the legislative finance committee on disbursements made
7 pursuant to this section. The report shall include the amounts
8 disbursed to each institution, the amount of matching funds and
9 their source and the purpose of the endowments."

10 SECTION 24. Section 21-1-27.2 NMSA 1978 (being Laws 2003,
11 Chapter 367, Section 1) is amended to read:

12 "21-1-27.2. TECHNOLOGY ENHANCEMENT FUND CREATED--
13 ALLOCATIONS--APPLICATION REVIEW PANELS.--

14 A. The "technology enhancement fund" is created in
15 the state treasury. The fund shall consist of appropriations,
16 income from investment of the fund, gifts, grants, donations
17 and bequests. Money in the fund shall not revert at the end of
18 any fiscal year. The fund shall be administered by the
19 [~~commission on~~] higher education division of the department of
20 finance and administration. Money in the fund shall be used to
21 provide matching funds to state research universities to
22 support innovative applied research that advances knowledge and
23 creates new products and production processes in the fields of
24 agriculture, biotechnology, biomedicine energy, materials
25 science, microelectronics, water resources, aerospace,

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1 telecommunications, manufacturing science and similar research
2 areas. Money from the fund shall be expended on warrants of
3 the secretary of finance and administration upon vouchers
4 signed by the [~~executive~~] director of the [~~commission on higher~~
5 ~~education~~] division or the [~~executive~~] director's authorized
6 representative.

7 B. Grants from the fund are available to state
8 research universities that are conducting collaborative
9 research with corporate and nonprofit organizations. A state
10 research university may apply for a grant from the fund in
11 accordance with rules promulgated by the [~~commission on higher~~
12 ~~education~~] division. Allocations from the fund shall be based
13 on a competitive process with applications reviewed by a panel
14 of scientific and business experts established by the
15 [~~commission~~] division. The review panel shall judge proposals
16 based on excellence in research design and possible innovation
17 in cross-disciplinary, multi-campus and higher education-
18 industry research collaboration. The review panel may
19 determine new research areas.

20 C. To apply for a grant, a state research
21 university must have equal or greater matching funds for the
22 proposal from sources other than the state."

23 SECTION 25. Section 21-1-27.3 NMSA 1978 (being Laws 2003,
24 Chapter 388, Section 1) is amended to read:

25 "21-1-27.3. HIGHER EDUCATION PERFORMANCE FUND--CREATED--
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1 ADMINISTRATION--DISTRIBUTIONS.--

2 A. The "higher education performance fund" is
3 created in the state treasury. The fund consists of
4 appropriations, gifts, grants, donations and income from
5 investment of the fund. Money in the fund shall not revert to
6 any other fund. The fund shall be administered by the
7 [~~commission on~~] higher education division of the department of
8 finance and administration, and money in the fund is
9 appropriated to the [~~commission~~] division for distributions to
10 public post-secondary educational institutions.

11 B. The [~~commission~~] division shall distribute money
12 in the fund annually to each public post-secondary educational
13 institution that met its performance standards in the preceding
14 year.

15 C. The [~~commission~~] division shall develop rules
16 for the assessment of performance measures and standards for
17 public post-secondary educational institutions and shall
18 annually assess the performance of each institution according
19 to those measures and standards."

20 SECTION 26. Section 21-1-27.4 NMSA 1978 (being Laws 2003,
21 Chapter 389, Section 1) is amended to read:

22 "21-1-27.4. HIGHER EDUCATION PROGRAM DEVELOPMENT
23 ENHANCEMENT FUND--PURPOSE.--

24 A. The "higher education program development
25 enhancement fund" is created in the state treasury. All income

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1 earned on investment of the fund shall be credited to the fund
2 and money in the fund shall not revert to any other fund at the
3 end of a fiscal year. The fund shall be administered by the
4 [~~commission on~~] higher education division of the department of
5 finance and administration and money in the fund is
6 appropriated to the [~~commission~~] division to carry out the
7 purposes of this section. Disbursements from the fund shall be
8 by warrant drawn by the secretary of finance and administration
9 pursuant to vouchers signed by the [~~executive~~] director of the
10 [~~commission on higher education~~] division or [~~his~~] the
11 director's authorized representative.

12 B. The higher education program development
13 enhancement fund shall be used to enhance the contribution of
14 post-secondary educational institutions to the resolution of
15 critical state issues and the advancement of the welfare of
16 state citizens.

17 C. At the beginning of each fiscal year in which
18 the [~~commission~~] division determines that the balance of the
19 fund is sufficient to make awards, the [~~commission~~] division
20 shall define or reaffirm no more than four critical issues to
21 be addressed through awards from the fund. Issues to be
22 addressed may include:

23 (1) expanding instructional programs to meet
24 critical statewide work force and professional training needs;

25 (2) enhancing instructional programs that

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1 provide employment opportunity for New Mexico students in a
2 global economy; and

3 (3) developing mission-specific instructional
4 programs that build on existing institutional academic
5 strengths.

6 D. The [~~commission~~] division shall establish
7 criteria and procedures for making awards from the fund based
8 on evaluation of competitive proposals submitted by post-
9 secondary educational institutions. Each winning proposal
10 shall address at least one of the critical issues defined for
11 use of the fund that year. Criteria may include:

12 (1) collaboration among educational agencies
13 and other public or private entities that demonstrate a
14 competency regarding the issues addressed by the proposal;

15 (2) the commitment of matching money; and

16 (3) evaluation components.

17 E. The [~~commission~~] division shall report annually
18 to the legislature and the governor on the status of the fund
19 and projects supported by the fund."

20 SECTION 27. Section 21-1-27.5 NMSA 1978 (being Laws 1995,
21 Chapter 56, Section 1, as amended) is amended to read:

22 "21-1-27.5. ADULT BASIC EDUCATION FUND CREATED.--The
23 "adult basic education fund" is created in the state treasury.
24 Money in the fund is appropriated to the [~~commission on~~] higher
25 education division of the department of finance and

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1 administration for the purpose of funding adult basic education
2 programs for educationally disadvantaged adults. Money in the
3 fund shall be distributed by the [~~commission~~] division pursuant
4 to an equitable formula established by the [~~commission~~]
5 division in consultation with representatives from the adult
6 basic education administrative sites. Any unexpended or
7 unencumbered balance remaining in the fund at the end of each
8 fiscal year shall revert to the general fund."

9 SECTION 28. Section 21-1-27.6 NMSA 1978 (being Laws 1995,
10 Chapter 56, Section 2, as amended) is amended to read:

11 "21-1-27.6. ADULT BASIC EDUCATION--DISTRIBUTION OF
12 MONEY--OBJECTIVE FORMULA--HIGHER EDUCATION [~~DEPARTMENT~~]
13 DIVISION--ADOPTION OF FORMULA.--The higher education division
14 of the department of finance and administration in consultation
15 with representatives of adult basic education administrative
16 sites shall create an equitable formula for the distribution of
17 money in the adult basic education fund, including funding for
18 instructional materials for adult basic education students. In
19 establishing an equitable formula, the [~~department~~] division
20 shall consider the types of programs conducted, the cost of
21 service delivery, the types and cost of instructional materials
22 and the socioeconomic profiles of the adult receiving services.
23 The [~~department~~] division shall review the formula and any
24 proposed changes with the adult basic education administrative
25 sites prior to adoption or amendment."

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1 SECTION 29. Section 21-1-27.7 NMSA 1978 (being Laws 2005,
2 Chapter 136, Section 1) is amended to read:

3 "21-1-27.7. FUND CREATED.--There is created in the
4 [~~commission on higher education~~] state treasury the "nurse
5 educators fund". The state treasurer shall deposit in the fund
6 all amounts appropriated to the fund. The fund shall be
7 administered by the [~~commission on~~] higher education division
8 of the department of finance and administration, which shall
9 charge not more than a five percent administrative fee.
10 Earnings from investment of the fund shall accrue to the credit
11 of the fund. Any balance in the fund at the end of any fiscal
12 year shall remain in the fund for appropriation by the
13 legislature [~~as provided in this section~~]. The purpose of the
14 fund is to enhance the ability of college- and university-
15 employed nursing educators to obtain bachelor of science,
16 master of science and doctor of philosophy degrees. The
17 [~~commission on higher education~~] division shall develop rules
18 for continuing employment or pay-back provisions for nursing
19 educators who use the fund."

20 SECTION 30. Section 21-1-27.9 NMSA 1978 (being Laws 2009,
21 Chapter 281, Section 1) is amended to read:

22 "21-1-27.9. ALTERNATIVE ENERGY AND ENERGY EFFICIENCY
23 PROGRAMS--FUND CREATED--AWARDS--CRITERIA.--

24 A. The "higher education new energy development
25 fund" is created in the state treasury. The fund shall consist

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1 of appropriations, gifts, grants, donations and bequests made
2 to the fund and federal grants or distributions made to the
3 fund or to the higher education division of the department of
4 finance and administration for deposit into the fund. All
5 income earned on investment of the fund shall be credited to
6 the fund, and money in the fund shall not revert to any other
7 fund at the end of a fiscal year. The fund shall be
8 administered by the [~~higher education department~~] division, and
9 money in the fund is appropriated to the [~~department~~] division
10 to carry out the purposes of this section. Disbursements from
11 the fund shall be by warrant drawn by the secretary of finance
12 and administration pursuant to vouchers signed by the
13 [~~secretary of higher education~~] director of the division or the
14 [~~secretary's~~] director's authorized representative.

15 B. The higher education new energy development fund
16 shall be used to provide financial incentives to:

17 (1) four-year public post-secondary
18 educational institutions to develop research programs, courses
19 of instruction and degree programs in the fields of alternative
20 energy and energy efficiency; and

21 (2) two-year public post-secondary educational
22 institutions to provide alternative energy and energy
23 efficiency programs and courses of instruction for students
24 seeking licensure or certification as electricians, plumbers,
25 mechanics, welders and heating, ventilation and air

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1 conditioning personnel or similar professions.

2 C. The [~~higher education department~~] division
3 shall, by rule, establish criteria and procedures for making
4 awards from the fund based on evaluation of competitive
5 proposals submitted by public post-secondary educational
6 institutions. The criteria shall include:

7 (1) a requirement that the application
8 demonstrate how the award will be used to establish permanent
9 educational programs in the fields of alternative energy and
10 energy efficiency;

11 (2) a requirement that the application
12 demonstrate how local resources will be [~~utilized~~] used,
13 including how the institution will cooperate with local
14 employers with a potential need for interns or graduates;

15 (3) the commitment of matching money; and

16 (4) such other evaluation components as the
17 [~~department~~] division deems useful.

18 D. No more than an amount equal to five percent of
19 the total awards made during a fiscal year shall be expended
20 from the fund in that fiscal year for administrative costs,
21 including project management, auditing and other oversight
22 functions.

23 E. The [~~higher education department~~] division shall
24 report annually to the legislature and the governor on the
25 status of the fund and programs supported by the fund."

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1 SECTION 31. Section 21-1-33 NMSA 1978 (being Laws 1974,
2 Chapter 30, Section 2, as amended) is amended to read:

3 "21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL.--

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

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

18 C. Following review by the legislative finance
19 committee, the manual shall be reproduced by the [~~department~~]
20 division and filed as required by the State Rules Act. Upon
21 the filing, the requirements set forth in the manual shall
22 constitute rules of the [~~department~~] division and have the
23 force of law. The [~~department~~] division shall review the
24 manual annually. Sections of the manual may be revised or
25 amended from time to time by the [~~department~~] division, and

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1 revisions or amendments shall become effective upon review by
2 the legislative finance committee and reproduction and filing
3 as provided in this section.

4 D. All institutions to which this section and
5 Section 21-1-32 NMSA 1978 apply shall comply with all of the
6 requirements in the manual, submit reports to the [~~department~~]
7 division as requested and furnish such additional information
8 as the [~~department~~] division deems necessary."

9 SECTION 32. Section 21-1-34 NMSA 1978 (being Laws 1977,
10 Chapter 330, Section 1, as amended) is amended to read:

11 "21-1-34. EDUCATIONAL TELEVISION EQUIPMENT REPLACEMENT
12 FUND--DISBURSEMENT.--The "educational television equipment
13 replacement fund" is created. The higher education division of
14 the department of finance and administration shall develop
15 criteria and promulgate rules for the disbursement of money in
16 this fund for the replacement of equipment at educational
17 television stations operated by institutions of higher
18 education. Disbursement shall be made to the institutions by
19 warrant of the department of finance and administration upon
20 vouchers signed by the [~~secretary of higher education~~] director
21 of the division or the director's authorized representative.

22 It is the intent of the legislature that in subsequent years a
23 specific line item for educational television replacement shall
24 be included in the appropriations recommended for educational
25 television by the [~~department~~] division. The appropriation to

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1 the fund in the General Appropriation Act of 1982 shall not
2 revert to the general fund at the end of any fiscal year, and
3 no subsequent appropriation to the fund shall revert unless it
4 contains the sentence "The appropriation to the educational
5 television equipment replacement fund shall revert."."

6 SECTION 33. Section 21-1-44 NMSA 1978 (being Laws 2010,
7 Chapter 65, Section 1) is amended to read:

8 "21-1-44. SCHOOL LEADERSHIP INSTITUTE--CREATED--
9 PURPOSE.--

10 A. The "school leadership institute" is created and
11 is administratively attached to the higher education division
12 of the department of finance and administration. The
13 [~~department~~] division shall provide administrative services for
14 the institute. The institute shall provide a comprehensive and
15 cohesive framework for preparing, mentoring and providing
16 professional development for principals and other public school
17 leaders.

18 B. The institute shall offer at least the following
19 programs:

20 (1) licensure preparation for aspiring
21 principals;

22 (2) mentoring for new principals and other
23 public school leaders;

24 (3) intensive support for principals at
25 schools in need of improvement;

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1 (4) professional development for aspiring
2 superintendents; and

3 (5) mentoring for new superintendents.

4 C. The institute shall partner with state agencies,
5 institutions of higher education and professional associations
6 to identify and recruit candidates for the institute."

7 SECTION 34. Section 21-2-3 NMSA 1978 (being Laws 1973,
8 Chapter 233, Section 3, as amended) is amended to read:

9 "21-2-3. STATE COMMISSION CREATED--DESIGNATED MEMBERS--
10 DESIGNATION OF SUPPLEMENTARY MEMBERS FOR SPECIFIC FUNCTIONS.--

11 There is created the "state commission on post-secondary
12 education". The [~~commission on~~] higher education division of
13 the department of finance and administration is designated the
14 state commission. For the purposes of the Post-Secondary
15 Educational Planning Act, the [~~commission on higher education~~]
16 division, in functioning as the state commission, is charged
17 with a concern for all types of post-secondary education and
18 all types of educational institutions and programs as
19 enumerated in Section 21-2-2 NMSA 1978. Whenever federal
20 statutes and regulations so require, the state commission may
21 request the governor to appoint, for specific functions
22 relating to federally sponsored programs, supplementary members
23 to the state commission, and members shall be appointed by the
24 governor to fulfill those specific functions as requested.

25 [~~When sitting with the state commission~~] The supplementary

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1 members shall have, for purposes of the specific functions for
2 which they were appointed, all the powers and perquisites of
3 regular members of the state commission."

4 SECTION 35. Section 21-2-5.1 NMSA 1978 (being Laws 1988,
5 Chapter 164, Section 1, as amended) is amended to read:

6 "21-2-5.1. FUNDING FORMULA.--

7 A. The [~~commission on~~] higher education division of
8 the department of finance and administration shall develop a
9 funding formula that will provide funding for each institution
10 of higher education to accomplish its mission as determined by
11 a statewide plan.

12 B. The [~~commission on higher education~~] division
13 may include factors in the funding formula, which when
14 implemented will achieve the following:

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

17 (2) develop and enhance programs that meet
18 targeted post-secondary educational needs and the related needs
19 of public schools;

20 (3) eliminate unnecessary, unproductive or
21 duplicative programs;

22 (4) consider faculty salaries and benefits
23 adjustment to a competitive level with similar institutions in
24 similar states, when such compensation adjustments are
25 supported by detailed analyses of faculty workloads and

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1 educational outcomes assessments, and nonteaching staff
2 salaries and benefits at a competitive level with other similar
3 public or private sector employment in the community in which
4 the institution is situated;

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

7 (6) provide for equipment and equipment
8 maintenance and library acquisitions and operations since the
9 development of the prior funding formula;

10 (7) fund off-campus courses and other
11 nontraditional course delivery systems at a level sufficient to
12 allow their development;

13 (8) provide incentives to institutions to
14 pursue private or alternative funding sources;

15 (9) encourage the sharing of expertise,
16 equipment and facilities and development of joint instructional
17 programs, research and public service projects;

18 (10) implement uniform articulation agreements
19 and facilitation of transfer of students between institutions;

20 (11) encourage energy conservation;

21 (12) require mechanisms to track expenditures
22 to ensure greater accountability; and

23 (13) require each institution of higher
24 education that offers distance learning and computer-based
25 courses of study to provide accompanying electronic formats

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

5 SECTION 36. Section 21-2A-12 NMSA 1978 (being Laws 1995,
6 Chapter 224, Section 18) is amended to read:

7 "21-2A-12. EXTENDED LEARNING FUND CREATED--DISTRIBUTION
8 OF FUND.--The "extended learning fund" is created in the state
9 treasury. Money in the fund is appropriated to the [~~commission~~
10 ~~on~~] higher education division of the department of finance and
11 administration for the purpose of making awards to public
12 schools and public post-secondary institutions for the purpose
13 of developing and operating extended learning programs
14 throughout the state. The [~~commission~~] division shall
15 establish by [~~regulation~~] rule a procedure for application and
16 award of money in the fund. Disbursements of the fund shall be
17 made by warrant of the department of finance and administration
18 pursuant to vouchers signed by the [~~executive~~] director of the
19 [~~commission on higher education~~] division or the director's
20 authorized representative. Any unexpended or unencumbered
21 balances remaining in the fund at the end of any fiscal year
22 shall not revert but shall remain to the credit of the fund."

23 SECTION 37. Section 21-12-15 NMSA 1978 (being Laws 2005,
24 Chapter 161, Section 1) is amended to read:

25 "21-12-15. NEW MEXICO MILITARY INSTITUTE--TRANSFER OF

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1 BUDGET BALANCES.--With the approval of the [~~commission on~~
2 higher education division of the department of finance and
3 administration, the board of regents of New Mexico military
4 institute may, each fiscal year, transfer up to five hundred
5 thousand dollars (\$500,000) of the institute's budget balances
6 to the legislative scholarship fund established to implement
7 the General Richard T. Knowles legislative scholarship
8 program."

9 SECTION 38. Section 21-13-11 NMSA 1978 (being Laws 1963,
10 Chapter 17, Section 10, as amended) is amended to read:

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

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

23 B. The [~~department~~] division shall annually
24 inspect, or investigate through the requirement of reports
25 prescribed by the [~~department~~] division, each community

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1 college. The inspection or investigation by report shall be
2 conducted upon the facilities and program of each community
3 college to determine the extent of compliance with the rules
4 promulgated by the [~~department~~] division. A report of each
5 inspection or final investigation by report shall be made to
6 the [~~department~~] division.

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

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

20 SECTION 39. Section 21-13A-3 NMSA 1978 (being Laws 2003,
21 Chapter 30, Section 3) is amended to read:

22 "21-13A-3. DEFINITIONS.--As used in the Workforce
23 Training Act:

24 A. "commission" means the [~~commission on higher~~
25 ~~education~~] division;

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1 B. "community college" means a public post-
2 secondary educational institution located in New Mexico
3 offering technical or vocational training or two-year degrees;

4 C. "customized training" means vocational or
5 technical training:

6 (1) offered by a community college;

7 (2) that provides specialized employee
8 training for a particular business or industry;

9 (3) for which a student who successfully
10 completes the training does not receive college credit; and

11 (4) that enhances workforce development in the
12 state;

13 D. "department" or "division" means the higher
14 education division of the department of finance and
15 administration;

16 ~~[D-]~~ E. "tier-2 undergraduate funding level" means
17 tier 2 of the higher education funding formula developed by the
18 commission; and

19 ~~[E-]~~ F. "workforce training program" means the
20 program created by the Workforce Training Act to provide
21 customized training at community colleges in New Mexico."

22 SECTION 40. Section 21-13A-6 NMSA 1978 (being Laws 2003,
23 Chapter 368, Section 1) is amended to read:

24 "21-13A-6. WORK FORCE SKILLS DEVELOPMENT FUND CREATED--
25 ALLOCATIONS--APPLICATION REVIEW PANELS.--

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1 A. The "work force skills development fund" is
2 created in the state treasury. The fund shall consist of
3 appropriations, income from investment of the fund, gifts,
4 grants, donations and bequests. Money in the fund shall not
5 revert at the end of any fiscal year. The fund shall be
6 administered by the [~~commission on higher education~~] division
7 and money in the fund is appropriated to the [~~commission~~]
8 division to provide matching funds to community colleges for
9 the development, expansion and support of broad-based entry-
10 level high-skills training programs. Money from the fund shall
11 be expended on warrants of the secretary of finance and
12 administration upon vouchers signed by the [~~executive~~] director
13 of the [~~commission on higher education~~] division or [~~his~~] the
14 director's authorized representative.

15 B. Individual community colleges or a consortium of
16 community colleges may apply for matching grants from the work
17 force skills development fund in accordance with rules
18 promulgated by the [~~commission on higher education~~] division.
19 Allocations from the fund shall be based on a competitive
20 process with applications reviewed by a panel of education,
21 business and labor experts established by the [~~commission~~]
22 division. To apply for a grant, a community college or
23 consortium must have equal or greater matching funds for the
24 proposal from sources other than the state."

25 **SECTION 41.** Section 21-16A-3 NMSA 1978 (being Laws 2000,

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1 Chapter 105, Section 3) is amended to read:

2 "21-16A-3. DEFINITIONS.--As used in the Learning Center
3 Act:

4 A. "board" means a learning center district board;

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

7 C. "community college board" means the governing
8 body of a community college district;

9 D. "department" or "division" means the higher
10 education division of the department of finance and
11 administration;

12 [~~D.~~] E. "district" means a learning center
13 district;

14 [~~E.~~] F. "extended learning services" means academic
15 and vocational educational programs offered by an institution
16 away from a campus of the institution without the facility of a
17 learning center and as defined by [~~commission~~] division rule
18 consistent with the Learning Center Act;

19 [~~F.~~] G. "institution" means a regionally accredited
20 public or private post-secondary educational institution;

21 [~~G.~~] H. "local school board" means the governing
22 body of a school district; and

23 [~~H.~~] I. "taxable value of property" means the sum
24 of the following:

25 (1) the "net taxable value", as that term is

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1 defined in the Property Tax Code, of property subject to
2 taxation under the Property Tax Code;

3 (2) the "assessed value" of "products" as
4 those terms are defined in the Oil and Gas Ad Valorem
5 Production Tax Act;

6 (3) the "assessed value" of "equipment" as
7 those terms are defined in the Oil and Gas Production Equipment
8 Ad Valorem Tax Act; and

9 (4) the "taxable value" of "copper mineral
10 property" as those terms are defined in the Copper Production
11 Ad Valorem Tax Act."

12 SECTION 42. Section 21-21-2 NMSA 1978 (being Laws 1970,
13 Chapter 82, Section 2, as amended) is amended to read:

14 "21-21-2. DEFINITIONS.--As used in the Student Loan Act:

15 A. "participating institution" means any post-high
16 school educational institution within the state, public or
17 private, including junior colleges and vocational schools,
18 [~~which~~] that qualifies as an eligible institution for the
19 federal guaranteed loan program under the Higher Education Act
20 of 1965, as amended, and that is participating in student loan
21 programs under the Student Loan Act, or any educational
22 institution not within the state attended by a qualified
23 student for the purpose of participating in the student
24 exchange programs administered by the western interstate
25 commission for higher education as provided for by the Compact

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1 for Western Regional Cooperation in Higher Education [~~Compact~~];

2 B. "qualified student" means a resident of New
3 Mexico who has been accepted for enrollment or who is enrolled
4 in a participating institution and who is otherwise eligible
5 for a student loan guaranteed by the United States. A standard
6 of academic performance higher than the minimum required for
7 continuing enrollment in the participating institution shall
8 not be required, and the student [~~must~~] shall be meeting the
9 minimum academic requirements of the participating institution
10 at the time any loan is made; and

11 C. "fiscal agent" means the chief financial officer
12 of one of the state higher educational institutions designated
13 by the [~~board of educational finance~~] higher education division
14 of the department of finance and administration."

15 SECTION 43. Section 21-21-3 NMSA 1978 (being Laws 1970,
16 Chapter 82, Section 3, as amended) is amended to read:

17 "21-21-3. STUDENT LOAN FUND--LOAN AUTHORITY.--There is
18 created in the state treasury the "student loan fund". The
19 state treasurer may use the student loan fund to:

20 A. purchase, from the fiscal agent, loans
21 guaranteed by the United States made to qualified students at
22 participating institutions; and

23 B. purchase from lending agencies located in New
24 Mexico student loan notes guaranteed by the United States made
25 to qualified students who at the time of the loan were

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1 attending participating institutions and who are currently
2 attending participating institutions and who are also borrowers
3 from the student loan fund. The fiscal agent and the [~~state~~
4 ~~board of educational finance~~] higher education division of the
5 department of finance and administration shall approve the
6 purchase of student loan notes. The purchased student loan
7 notes shall be delivered to the state treasurer as collateral
8 for the student loan fund."

9 SECTION 44. Section 21-21-16 NMSA 1978 (being Laws 1978,
10 Chapter 110, Section 3) is amended to read:

11 "21-21-16. DEFINITIONS.--As used in the Student Loan
12 Guarantee Act:

13 A. "board", "department" or "division" means the
14 [~~board of educational finance~~] higher education division of the
15 department of finance and administration;

16 B. "eligible student" means a resident of New
17 Mexico who has been accepted for enrollment or who is enrolled
18 in a participating institution and who is otherwise eligible
19 for a student loan guaranteed under the Student Loan Guarantee
20 Act. A standard of academic performance higher than the
21 minimum required for continuing enrollment in the participating
22 institution shall not be required, and the student [~~must~~] shall
23 be meeting the minimum academic requirements of the
24 participating institution at the time any loan is made;

25 C. "fiscal agent" means the chief financial officer

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1 of one of the state higher educational institutions designated
2 by the [~~board~~] division;

3 D. "loans" means loans made by the fiscal agent to
4 residents of this state under Title IV, Part B of the federal
5 Higher Education Act of 1965, as amended;

6 E. "participating institution" means any post-high
7 school educational institution within or without the state,
8 public or private, including junior colleges and vocational
9 schools, [~~which~~] that qualifies as an eligible institution for
10 the federal guaranteed loan program under the federal Higher
11 Education Act of 1965, as amended, and [~~which~~] that is approved
12 by the [~~board~~] division for the purposes of the Student Loan
13 Guarantee Act; and

14 F. "resident" means a person who has established
15 legal residency in New Mexico, as defined by the [~~board~~]
16 division."

17 SECTION 45. Section 21-21-18 NMSA 1978 (being Laws 1978,
18 Chapter 110, Section 5, as amended) is amended to read:

19 "21-21-18. FUND CREATED--METHOD OF PAYMENT.--

20 A. The state treasurer shall create a suspense
21 account in the state treasury to be known as the "student loan
22 guarantee fund" for the purpose of insuring student loans held
23 by the fiscal agent. The student loan guarantee fund shall be
24 held in trust and invested by the state treasurer in accordance
25 with law.

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1 B. There may be deposited in the student loan
2 guarantee fund:

3 (1) receipts from the federal government under
4 the federal Higher Education Act of 1965, as amended;

5 (2) receipts under the Student Loan Guarantee
6 Act from any other source, except interest earned from
7 investment of the student loan guarantee fund, which shall be
8 credited to the general fund, when the receipts may be lawfully
9 used for the purpose of insuring student loans held by the
10 fiscal agent; and

11 (3) insurance fees charged by the [~~commission on~~
12 ~~higher education~~] division.

13 C. Disbursements from the student loan guarantee fund
14 shall be made upon vouchers signed by the [~~executive~~] director
15 of the [~~commission on higher education~~] division or the
16 director's authorized representative."

17 SECTION 46. Section 21-21-25 NMSA 1978 (being Laws 1978,
18 Chapter 110, Section 12) is amended to read:

19 "21-21-25. COLLECTION OF STUDENT LOANS--CONTRACTS
20 AUTHORIZED.--The [~~board of educational finance~~] higher
21 education division of the department of finance and
22 administration may contract with one or more attorneys or law
23 firms or with any other private business concern to assist the
24 [~~board~~] division in collecting any defaulted loan made pursuant
25 to the Student Loan Act or the Student Loan Guarantee Act. No

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1 contract shall be entered into pursuant to this section unless
2 proposals have been sought from two or more qualified firms."

3 SECTION 47. Section 21-21B-2 NMSA 1978 (being Laws 1982,
4 Chapter 88, Section 2, as amended) is amended to read:

5 "21-21B-2. DEFINITIONS.--As used in the Work-Study Act:

6 A. "board", [ø] "commission", [ø] "department" or
7 "division" means the higher education division of the
8 department of finance and administration; and

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

12 SECTION 48. Section 21-21C-3 NMSA 1978 (being Laws 1983,
13 Chapter 240, Section 3) is amended to read:

14 "21-21C-3. DEFINITIONS.--As used in the Student Choice
15 Act:

16 A. "board" or "division" means the [~~board of~~
17 ~~educational finance~~] higher education division of the
18 department of finance and administration;

19 B. "institution" means any independent nonprofit
20 nonsectarian four-year college or university whose New Mexico
21 campus is accredited by the north central accrediting
22 association;

23 C. "independent" as used with respect to an
24 institution means any institution [~~which~~] that is not a state
25 institution; and

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1 D. "student choice grant" means a grant awarded to a
2 student by the ~~[board]~~ division pursuant to the provisions of
3 the Student Choice Act."

4 SECTION 49. Section 21-21D-3 NMSA 1978 (being Laws 1984,
5 Chapter 96, Section 3) is amended to read:

6 "21-21D-3. DEFINITIONS.--As used in the Senior Citizens
7 Reduced Tuition Act:

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

11 B. "eligible institution" means any New Mexico post-
12 secondary degree-granting educational institution;

13 C. "reduced tuition" means that tuition charged
14 senior citizens at the rate of five dollars (\$5.00) per credit
15 hour, up to six hours per semester; and

16 D. "senior citizen" means a person age sixty-five or
17 older."

18 SECTION 50. Section 21-21F-3 NMSA 1978 (being Laws 1986,
19 Chapter 50, Section 3) is amended to read:

20 "21-21F-3. DEFINITIONS.--As used in the Fire Fighter and
21 Peace Officer Survivors Scholarship Act:

22 A. "board" or "division" means the ~~[board of~~
23 ~~educational finance]~~ higher education division of the
24 department of finance and administration;

25 B. "eligible institution" means any state institution

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1 of higher education in New Mexico;

2 C. "fire fighter" means any member of a fire
3 department that is part of or administered by the state or any
4 political subdivision of the state;

5 D. "peace officer" means any member of a police or
6 sheriff's department that is part of or administered by the
7 state or any political subdivision of the state and officers in
8 the corrections department [~~of corrections~~]; and

9 E. "survivor" means the spouse of the fire fighter or
10 peace officer killed in the line of duty and any adopted or
11 natural children twenty-one years of age or under at the time
12 of [~~his~~] the fire fighter's or peace officer's death."

13 SECTION 51. Section 21-21G-3 NMSA 1978 (being Laws 1988,
14 Chapter 111, Section 3, as amended) is amended to read:

15 "21-21G-3. DEFINITIONS.--As used in the Graduate
16 Scholarship Act:

17 A. "academic year" means any consecutive period of
18 two semesters, three quarters or other comparable units
19 commencing with the fall term each year;

20 B. "award recipient" means a student awarded a
21 graduate scholarship;

22 C. "department" or "division" means the higher
23 education division of the department of finance and
24 administration;

25 D. "eligible institution" means any

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1 graduate-degree-granting state university accredited by the
2 north central association of colleges and secondary schools;

3 E. "graduate and professional field" means any
4 program of study intended to result in a master's or doctoral
5 degree, excluding ~~[the]~~ a degree in medicine; and

6 F. "groups underrepresented in graduate education"
7 means women, minorities, persons with a visual impairment or
8 other physical disability and other groups ~~[who]~~ that have
9 traditionally been underrepresented in the specific area of
10 graduate study or profession for which the scholarship is
11 awarded."

12 SECTION 52. Section 21-21H-3 NMSA 1978 (being Laws 1989,
13 Chapter 212, Section 3) is amended to read:

14 "21-21H-3. DEFINITIONS.--As used in the New Mexico
15 Scholars Act:

16 A. "academic year" means any consecutive period of
17 two semesters, three quarters or other comparable units
18 commencing with the fall term each year;

19 B. "award recipient" means a student awarded a New
20 Mexico Scholars Act scholarship;

21 C. "commission" or "division" means the ~~[commission~~
22 ~~on]~~ higher education division of the department of finance and
23 administration;

24 D. "eligible institution" means any degree-granting
25 educational institution in New Mexico accredited by the north

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1 central association of colleges and secondary schools;

2 E. "satisfactory academic progress" means completion
3 of at least twenty-four credit hours per year and maintenance
4 of a cumulative grade point average of a minimum of 3.0 or
5 higher on a scale of 4.0; and

6 F. "scholarship" means a scholarship awarded pursuant
7 to the New Mexico Scholars Act."

8 SECTION 53. Section 21-21I-3 NMSA 1978 (being Laws 1990
9 (1st S.S.), Chapter 8, Section 3, as amended) is amended to
10 read:

11 "21-21I-3. DEFINITIONS.--As used in the Minority Doctoral
12 Assistance Loan for Service Program Act:

13 A. "academic committee" means a committee at a
14 sponsoring institution appointed by the president of the
15 institution and composed of two faculty members, two academic
16 administrators and one central administrator;

17 B. "commission" or "division" means the [~~commission~~
18 ~~on~~] higher education division of the department of finance and
19 administration;

20 C. "eligible institution" means a [~~commission-~~
21 ~~approved~~] division-approved institution of higher education
22 that offers a doctoral degree-granting program in the fields of
23 engineering, physical or life sciences, mathematics or other
24 academic disciplines in which ethnic minorities and women are
25 demonstrably underrepresented;

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1 D. "sponsoring institution" means a four-year public
2 post-secondary educational institution located in New Mexico;
3 and

4 E. "student" means an individual who is an ethnic
5 minority or a woman and who has been accepted for enrollment at
6 an eligible institution to undertake a post-baccalaureate
7 course of instruction in the field of engineering, physical or
8 life sciences or mathematics."

9 **SECTION 54.** Section 21-21J-3 NMSA 1978 (being Laws 1995,
10 Chapter 35, Section 3) is amended to read:

11 "21-21J-3. DEFINITIONS.--As used in the Legislative
12 Endowment Scholarship Act:

13 A. "commission" or "division" means the [~~commission~~
14 ~~on~~] higher education division of the department of finance and
15 administration; and

16 B. "student" means a resident of New Mexico who is
17 enrolled or will be enrolled, at the time the scholarship is
18 awarded, in a public post-secondary educational institution in
19 New Mexico."

20 **SECTION 55.** Section 21-21K-2 NMSA 1978 (being Laws 1997,
21 Chapter 259, Section 2, as amended) is amended to read:

22 "21-21K-2. DEFINITIONS.--As used in the Education Trust
23 Act:

24 A. "beneficiary" means a person who is entitled to
25 receive benefits under a college investment agreement or a

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1 prepaid tuition contract;

2 B. "board" means the education trust board;

3 C. "commission" or "division" means the [~~commission~~
4 ~~on~~] higher education division of the department of finance and
5 administration;

6 D. "college investment agreement" means an agreement
7 entered into by the board and an investor, pursuant to the
8 provisions of the Education Trust Act, to defray the costs of
9 attendance of a beneficiary at an institution of higher
10 education;

11 E. "council" means the state investment council;

12 F. "fund" means the education trust fund;

13 G. "institution of higher education" means a state
14 public post-secondary educational institution as defined in
15 Section 6-17-1.1 NMSA 1978, a branch college, an independent
16 community college, a technical and vocational institute or, if
17 approved by the board, another public or private post-secondary
18 educational institution located in this state or any other
19 state;

20 H. "investor" means a person who has entered into a
21 college investment agreement with the board;

22 I. "prepaid tuition contract" means a contract
23 entered into by the board and a purchaser, pursuant to the
24 provisions of the Education Trust Act, to provide for the
25 payment of higher education tuition and required fees of a

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1 beneficiary; and

2 J. "purchaser" means a person who is obligated to
3 make payments under a prepaid tuition contract."

4 SECTION 56. Section 21-21L-3 NMSA 1978 (being Laws 2005,
5 Chapter 192, Section 3, as amended by Laws 2007, Chapter 70,
6 Section 2 and by Laws 2007, Chapter 71, Section 2 and also by
7 Laws 2007, Chapter 85, Section 2) is amended to read:

8 "21-21L-3. DEFINITIONS.--As used in the College
9 Affordability Act:

10 A. "commission", ~~[or]~~ "department" or "division"
11 means the higher education division of the department of
12 finance and administration;

13 B. "eligible student" means a New Mexico resident who
14 is enrolled or enrolling at least half-time in a public post-
15 secondary educational institution or tribal college at any time
16 later than one hundred twenty days following high school
17 graduation or the award of a general educational development
18 certificate;

19 C. "scholarship" means a college affordability
20 scholarship; and

21 D. "tribal college" means a tribally, federally or
22 congressionally chartered post-secondary educational
23 institution located in New Mexico that is accredited by the
24 north central association of colleges and schools."

25 SECTION 57. Section 21-21M-3 NMSA 1978 (being Laws 2007,

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1 Chapter 75, Section 3 and Laws 2007, Chapter 76, Section 3) is
2 amended to read:

3 "21-21M-3. DEFINITIONS.--As used in the Students with
4 Disabilities Scholarship Act:

5 A. "award recipient" means a student with
6 disabilities who receives an undergraduate scholarship;

7 B. "department" or "division" means the higher
8 education division of the department of finance and
9 administration;

10 C. "secretary" or "director" means [~~secretary of~~
11 ~~higher education~~] the director of the division; and

12 D. "student with disabilities" means a student who
13 has a record of a physical or mental condition that
14 substantially limits one or more major life activities,
15 including attention deficit disorder or other specific learning
16 disabilities that the [~~department~~] division recognizes as
17 disabilities."

18 SECTION 58. Section 21-22-3 NMSA 1978 (being Laws 1975,
19 Chapter 244, Section 3, as amended) is amended to read:

20 "21-22-3. DEFINITIONS.--As used in the Medical Student
21 Loan for Service Act:

22 A. "commission" or "division" means the [~~commission~~
23 ~~on~~] higher education division of the department of finance and
24 administration;

25 B. "loan" means a grant of funds to defray the costs

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1 incidental to a medical education, under a contract between the
2 [~~commission~~] division and a medical student, requiring either
3 repayment with interest or repayment in services; and

4 C. "student" means a resident of New Mexico who is a
5 student enrolled in a school of medicine."

6 SECTION 59. Section 21-22A-3 NMSA 1978 (being Laws 1978,
7 Chapter 109, Section 3, as amended) is amended to read:

8 "21-22A-3. DEFINITIONS.--As used in the Osteopathic
9 Medical Student Loan for Service Act:

10 A. "commission" or "division" means the [~~commission~~
11 ~~on~~] higher education division of the department of finance and
12 administration;

13 B. "loan" means a grant of funds to defray the costs
14 incidental to an osteopathic medical education, under a
15 contract between the [~~commission~~] division and an osteopathic
16 medical student, requiring either repayment with interest or
17 repayment in services;

18 C. "osteopathic medical education" means the
19 education required to be an osteopathic physician or
20 osteopathic physician's assistant; and

21 D. "student" means a resident of New Mexico who is a
22 student enrolled in a school of osteopathic medicine or an
23 osteopathic physician's assistant program."

24 SECTION 60. Section 21-22B-3 NMSA 1978 (being Laws 1987,
25 Chapter 299, Section 3, as amended) is amended to read:

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1 "21-22B-3. DEFINITIONS.--As used in the Nursing Student
2 Loan for Service Act:

3 A. "commission" or "division" means the [~~commission~~
4 ~~en~~] higher education division of the department of finance and
5 administration;

6 B. "loan" means a grant of funds to defray the costs
7 incidental to a nursing education, under a contract between the
8 [~~commission~~] division and a nursing student, requiring
9 repayment with services or repayment with interest;

10 C. "student" means a resident of New Mexico who is a
11 student enrolled in a program of nursing; and

12 D. "program of nursing" means a nursing education
13 program in a New Mexico institution accredited by a member of
14 the council on post-secondary accreditation or a nursing
15 education program approved by the New Mexico board of nursing."

16 SECTION 61. Section 21-22C-3 NMSA 1978 (being Laws 1994,
17 Chapter 57, Section 5, as amended) is amended to read:

18 "21-22C-3. DEFINITIONS.--As used in the Allied Health
19 Student Loan for Service Act:

20 A. "allied health profession" means physical therapy,
21 occupational therapy, speech-language pathology, audiology,
22 pharmacy, nutrition, respiratory care, laboratory technology,
23 radiologic technology, dental hygiene, mental health services,
24 emergency medical services or a licensed or certified health
25 profession as defined by the [~~department~~] division;

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1 B. "department" or "division" means the higher
2 education division of the department of finance and
3 administration;

4 C. "loan" means a grant of money to defray the costs
5 incidental to an allied health profession education, under a
6 contract between the [~~department~~] division and an allied health
7 profession student, requiring repayment with services or
8 repayment of principal and interest; and

9 D. "student" means a resident of New Mexico who is
10 enrolled in an accredited program for one of the allied health
11 professions."

12 SECTION 62. Section 21-22D-3 NMSA 1978 (being Laws 1995,
13 Chapter 144, Section 18) is amended to read:

14 "21-22D-3. DEFINITIONS.--As used in the Health
15 Professional Loan Repayment Act:

16 A. "commission" or "division" means the [~~commission~~
17 ~~on~~] higher education division of the department of finance and
18 administration;

19 B. "health professional" means a primary care
20 physician, optometrist, podiatrist, [~~physician's~~] physician
21 assistant, dentist, nurse, member of an allied health
22 profession as defined in the Allied Health Student Loan for
23 Service Act or a licensed or certified health professional as
24 determined by the [~~commission~~] division; and

25 C. "loan" means a grant of money to defray the costs

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1 incidental to a health education, under a contract between the
2 federal government or a commercial lender and a health
3 professional, requiring either repayment of principal and
4 interest or repayment in services."

5 SECTION 63. Section 21-22E-3 NMSA 1978 (being Laws 2001,
6 Chapter 288, Section 3, as amended) is amended to read:

7 "21-22E-3. DEFINITIONS.--As used in the Teacher Loan for
8 Service Act:

9 A. "commission" or "division" means the [~~commission~~
10 ~~on~~] higher education division of the department of finance and
11 administration;

12 B. "loan" means a payment of money under contract
13 between the [~~commission~~] division and a student that defrays
14 the costs incidental to a teacher preparation program offered
15 in a regionally accredited post-secondary educational
16 institution in New Mexico and that requires repayment in
17 services;

18 C. "student" means a United States citizen who is
19 enrolled in or accepted by an undergraduate or graduate teacher
20 preparation program at a regionally accredited post-secondary
21 educational institution in New Mexico; and

22 D. "teacher preparation program" means a program that
23 has been formally approved as meeting the requirements of the
24 public education department and that leads to initial licensure
25 or to additional licensure endorsements, including a program in

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1 a two-year post-secondary educational institution that meets
2 the requirements for a teacher education transfer module
3 established pursuant to Subsection C of Section 21-1B-4 NMSA
4 1978."

5 SECTION 64. Section 21-22F-3 NMSA 1978 (being Laws 2005,
6 Chapter 83, Section 3, as amended) is amended to read:

7 "21-22F-3. DEFINITIONS.--As used in the Public Service
8 Law Loan Repayment Act:

9 A. "committee" means the public service law advisory
10 committee;

11 B. "department", "commission" or "division" means the
12 higher education division of the department of finance and
13 administration;

14 C. "legal education" means education at an accredited
15 law school and any bar review preparation courses for the state
16 bar examination;

17 D. "loan" means money allocated to defray the costs
18 incidental to a legal education under a contract between the
19 federal government or a commercial lender and a law school
20 student, requiring either repayment of principal and interest
21 or repayment in services;

22 E. "participating attorney" means an attorney who
23 receives a loan repayment award from the [~~department~~] division
24 pursuant to the provisions of the Public Service Law Loan
25 Repayment Act; and

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- 1 F. "public service employment" means employment with:
2 (1) an organization that is exempt from taxation
3 pursuant to Section 501(c)(3) of Title 26 of the United States
4 Code and that provides for the care and maintenance of indigent
5 persons in New Mexico through civil legal services;
6 (2) the public defender department; or
7 (3) a New Mexico district attorney's office."

8 SECTION 65. Section 21-22G-2 NMSA 1978 (being Laws 2009,
9 Chapter 225, Section 2) is amended to read:

10 "21-22G-2. DEFINITIONS.--As used in the Conditional
11 Tuition Waiver for Primary Care Medical Students Act:

12 A. "course of study" means a medical student's
13 medical education, including any residency program;

14 B. "department" or "division" means the higher
15 education division of the department of finance and
16 administration;

17 C. "fund" means the primary care physician
18 conditional tuition waiver program fund;

19 D. "participant" means an individual [~~that~~] who has
20 applied to participate in, has been accepted into and has
21 signed a contract agreeing to the terms of the program;

22 E. "primary care physician" means a medical doctor
23 with specialty training in family medicine, general internal
24 medicine or general pediatrics;

25 F. "program" means the primary care physician

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1 conditional tuition waiver program;

2 G. "residency" means three years of specialty
3 training in family medicine, general internal medicine or
4 general pediatrics after medical school;

5 H. "secretary" or "director" means the [~~secretary of~~
6 ~~higher education~~] director of the division;

7 I. "underserved area" means a health care underserved
8 area as defined in the Rural Primary Health Care Act;

9 J. "university" means the university of New Mexico
10 school of medicine; and

11 K. "waiver" means a loan to cover tuition, fees and a
12 stipend that is forgiven in whole or in part if the participant
13 renders service as a primary care physician in an underserved
14 area of the state pursuant to the provisions of the Conditional
15 Tuition Waiver for Primary Care Medical Students Act."

16 SECTION 66. Section 21-23-3 NMSA 1978 (being Laws 1971,
17 Chapter 303, Section 3, as amended) is amended to read:

18 "21-23-3. DEFINITIONS.--As used in the Post-Secondary
19 Educational Institution Act:

20 A. "commission" or "division" means the [~~commission~~
21 ~~on~~] higher education division of the department of finance and
22 administration;

23 B. "career school" means a private post-secondary
24 educational institution offering a formal educational
25 curriculum in New Mexico for a fee to members of the general

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1 public beyond compulsory school age, terminating in a
2 certificate, diploma, associate degree or comparable
3 confirmation of completion of the curriculum;

4 C. "college" or "university" means a private post-
5 secondary educational institution offering a formal educational
6 curriculum in New Mexico for a fee to members of the general
7 public beyond compulsory school age, terminating in a
8 baccalaureate, master's or doctoral degree or comparable
9 confirmation of completion of the curriculum;

10 D. "license" means a written acknowledgment by the
11 [~~commission~~] division that a career school or nonregionally
12 accredited college or university has met the requirements of
13 the [~~commission~~] division for offering a formal educational
14 curriculum within New Mexico;

15 E. "post-secondary educational institution" includes
16 an academic, vocational, technical, business, professional or
17 other school, college or university or other organization or
18 person offering or purporting to offer courses, instruction,
19 training or education from a physical site in New Mexico,
20 through distance education, correspondence or in person; and

21 F. "registration" means a written acknowledgment by
22 the [~~commission~~] division that a regionally accredited college
23 or university has filed pertinent curriculum and enrollment
24 information as required by the [~~commission~~] division."

25 SECTION 67. Section 21-23-8 NMSA 1978 (being Laws 1975,

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1 Chapter 148, Section 8, as amended) is amended to read:

2 "21-23-8. FUND CREATED.--There is created in the state
3 treasury the "post-secondary educational institution fund".
4 Money appropriated to [~~this~~] the fund or accruing to it through
5 gifts, grants or bequests shall not be transferred to another
6 fund or encumbered or disbursed in any manner except for the
7 administration of the Post-Secondary Educational Institution
8 Act or the Out-of-State Proprietary School Act. The fund shall
9 not revert at the end of the fiscal year. Disbursements from
10 the fund shall be made only upon warrant drawn by the secretary
11 of finance and administration pursuant to vouchers signed by
12 the [~~executive~~] director of the [~~commission on higher~~
13 ~~education~~] division or the director's authorized
14 representative."

15 SECTION 68. Section 21-24-2 NMSA 1978 (being Laws 1971,
16 Chapter 304, Section 2, as amended) is amended to read:

17 "21-24-2. DEFINITIONS.--As used in the Out-of-State
18 Proprietary School Act:

19 [~~A. "course" means any course, plan or program of~~
20 ~~instruction, conducted in person, by mail or by other methods;~~

21 [~~B. "student" means any person within this state who~~
22 ~~is above compulsory school age and eligible for one or more~~
23 ~~courses of instruction;~~

24 ~~G.]~~ A. "agent" means any person who solicits in
25 person and for a fee the enrollment of a student in a course of

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1 instruction offered by a proprietary school;

2 B. "commission" or "division" means the higher
3 education division of the department of finance and
4 administration;

5 C. "course" means any course, plan or program of
6 instruction, conducted in person, by mail or by other method;

7 D. "proprietary school" means a nonpublic
8 out-of-state school, academy or similar institution offering
9 within New Mexico a course of instruction or training through
10 correspondence or similar methods or offering within New Mexico
11 a course of instruction or training to be conducted outside New
12 Mexico, but does not include a private out-of-state
13 post-secondary educational institution offering instruction or
14 training within New Mexico, to any student within this state;
15 and

16 [~~E. "commission" means the commission on higher~~
17 ~~education]~~

18 E. "student" means any person within this state who
19 is above compulsory school age and eligible for one or more
20 courses of instruction."

21 SECTION 69. Section 21-26-3 NMSA 1978 (being Laws 1983,
22 Chapter 195, Section 3) is amended to read:

23 "21-26-3. DEFINITIONS.--As used in the Osteopathic Intern
24 Act:

25 A. "board" or "division" means the [~~board of~~

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1 ~~educational finance]~~ higher education division of the
2 department of finance and administration;

3 B. "hospital" means a fully accredited nonprofit
4 osteopathic teaching hospital in New Mexico that accepts newly
5 graduated physicians for internships in family practice; and

6 C. "osteopathic intern" means a graduate of a college
7 of osteopathic medicine approved by the American osteopathic
8 association and who has been accepted by a hospital for
9 postdoctoral training in family practice."

10 SECTION 70. Section 21-27-3 NMSA 1978 (being Laws 1983,
11 Chapter 316, Section 3) is amended to read:

12 "21-27-3. DEFINITIONS.--As used in the Two-Year College
13 Maintenance Act:

14 A. "board" or "division" means the [~~board of~~
15 ~~educational finance created pursuant to Section 21-1-26 NMSA~~
16 ~~1978]~~ higher education division of the department of finance
17 and administration;

18 B. "fund" means the two-year college maintenance
19 fund; and

20 C. "qualifying institution" means a statutorily
21 created branch community college, a junior college or area
22 vocational school or a two-year constitutionally created post-
23 secondary state educational institution."

24 SECTION 71. TEMPORARY PROVISION--TRANSFERS.--

25 A. On the effective date of this act, all functions,

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1 appropriations, money, records, furniture, equipment, supplies
2 and other property of the higher education department are
3 transferred to the department of finance and administration.

4 B. On the effective date of this act, all contractual
5 obligations of the higher education department are binding on
6 the higher education division of the department of finance and
7 administration.

8 C. On the effective date of this act, all statutory
9 references to the board of educational finance, the commission
10 on higher education or the higher education department are
11 deemed to be references to the higher education division of the
12 department of finance and administration.

13 D. All rules of the higher education department shall
14 be deemed to be the rules of the higher education division of
15 the department of finance and administration until amended or
16 repealed by the higher education division.

17 SECTION 72. REPEAL.--Sections 9-25-1 through 9-25-13 NMSA
18 1978 (being Laws 2005, Chapter 289, Sections 1 through 4, 29
19 and 5 through 13, as amended) are repealed.

20 SECTION 73. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is September 1, 2011.