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HOUSE BILL 482

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Sheryl Williams Stapleton

AN ACT

RELATING TO PUBLIC EDUCATION; AUTHORIZING THE NEW MEXICO
LEGISLATIVE COUNCIL TO EXAMINE RULES PROMULGATED AND ADOPTED BY
THE PUBLIC EDUCATION DEPARTMENT AND MAKE RECOMMENDATIONS TO THE
FULL LEGISLATURE; REQUIRING THE SECRETARY OF PUBLIC EDUCATION
TO BE CONFIRMED BY THE SENATE BEFORE EXERCISING RULEMAKING
AUTHORITY.

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

SECTION 1. A new section of the Public School Code is
enacted to read:

"[NEW MATERIAL] LEGISLATIVE REVIEW OF PUBLIC EDUCATION
DEPARTMENT RULES.--

A. The department shall file a copy of a proposed
rule with the New Mexico legislative council at the time the
rule is promulgated.

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1 B. The New Mexico legislative council shall examine
2 each proposed rule to determine whether the rule:

3 (1) is a valid exercise of delegated
4 legislative authority;

5 (2) is necessary to accomplish the
6 requirements of the specific statute that the rule implements;
7 and

8 (3) is a reasonable implementation of the law
9 as it applies to any affected class of persons.

10 C. Upon the New Mexico legislative council's
11 request, the department shall provide the council with the
12 information necessary to exercise the powers provided in
13 Subsection B of this section.

14 D. As necessary, the New Mexico legislative council
15 shall consult with the legislative education study committee
16 and the legislative finance committee or other committees of
17 the legislature with subject matter jurisdiction over the
18 subjects under the rule that the council is examining."

19 **SECTION 2.** A new section of the Public School Code is
20 enacted to read:

21 "[NEW MATERIAL] LEGISLATIVE REVIEW--PROCEDURES AND
22 POWERS.--

23 A. No later than thirty days after receiving a copy
24 of a proposed rule from the department, the New Mexico
25 legislative council shall:

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1 (1) approve the rule;

2 (2) disapprove the rule and propose an
3 amendment to the rule; or

4 (3) disapprove the rule.

5 B. The New Mexico legislative council shall make
6 recommendations to the legislature on the approval or
7 disapproval of all department rules.

8 C. All rules approved by the legislature shall
9 become effective on the date specified by the department.

10 D. No rule shall be adopted if the rule has not
11 been approved by the legislature."

12 SECTION 3. Section 2-3-3 NMSA 1978 (being Laws 1951,
13 Chapter 182, Section 3, as amended) is amended to read:

14 "2-3-3. LEGISLATIVE COUNCIL--POWERS--DUTIES.--It [~~shall~~
15 ~~be~~] is the duty of the New Mexico legislative council to:

16 A. [~~to~~] adopt rules and regulations for the
17 administration of [~~this act~~] Chapter 2, Article 3 NMSA 1978 in
18 the conduct of the affairs of the legislative council service;

19 B. [~~to~~] formulate policies for the operation and
20 conduct of the business of the legislative council service and
21 generally to supervise all of the activities of [~~such~~] the
22 council service;

23 C. [~~to~~] carry out the purposes of the legislative
24 council service as hereafter set forth;

25 D. [~~to~~] create committees of legislators to study

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1 major problems during the periods when the legislature is not
2 in session; provided that:

3 (1) no member of the council shall serve as an
4 officer or voting member on an interim committee appointed or
5 created by the council;

6 (2) all committees created by the council
7 shall terminate on or before December 1 of the year in which
8 they are created unless the council subsequently extends the
9 life of the committee for not more than one month;

10 (3) the minority party shall be represented on
11 all council-created committees in the proportion the minority
12 party is represented in each house;

13 (4) the relationship of the size of the house
14 and senate shall be taken into consideration in determining the
15 number of members from each house appointed to an interim
16 committee created by the council; and

17 (5) members shall be appointed to council-
18 created committees by the same appointing authorities that
19 appoint the council members from each house and subject to the
20 same recommendations. The council shall name committee
21 officers from among the committee members so appointed;

22 E. [~~to~~] adopt rules of procedure for all committees
23 created by the council, including a rule that no action shall
24 be taken by [~~the~~] a committee if a majority of the total
25 membership from either house on the committee rejects such

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1 action; provided that no member of the legislature shall ever
2 be excluded from any meeting of any committee appointed by the
3 council; [~~and~~]

4 F. [~~to~~] refrain from advocating or opposing the
5 introduction or passage of legislation; and

6 G. review rules promulgated by the public education
7 department and make recommendations to the legislature on
8 adoption of those rules."

9 SECTION 4. Section 9-24-5 NMSA 1978 (being Laws 2004,
10 Chapter 27, Section 5) is amended to read:

11 "9-24-5. SECRETARY--APPOINTMENT.--

12 A. The administrative head of the department is the
13 "secretary of public education", who shall be appointed by the
14 governor with the consent of the senate and who shall serve in
15 the executive cabinet.

16 B. An appointed secretary shall serve and have all
17 of the duties, responsibilities and authority, except for the
18 authority to promulgate and adopt rules of that office during
19 the period of time prior to final action by the senate
20 confirming or rejecting [~~his~~] the secretary designate's
21 appointment."

22 SECTION 5. Section 22-2-1 NMSA 1978 (being Laws 1990 (1st
23 S.S.), Chapter 9, Section 10, as amended) is amended to read:

24 "22-2-1. SECRETARY AND DEPARTMENT--GENERAL POWERS.--

25 A. The secretary is the governing authority and

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1 shall have control, management and direction of all public
2 schools, except as otherwise provided by law.

3 B. The department may:

4 (1) adopt, promulgate and enforce rules to
5 exercise its authority and the authority of the secretary;

6 (2) enter into contracts to carry out its
7 duties;

8 (3) apply to the district court for an
9 injunction, writ of mandamus or other appropriate relief to
10 enforce the provisions of the Public School Code or rules
11 promulgated pursuant to the Public School Code; and

12 (4) waive provisions of the Public School Code
13 as authorized by law.

14 C. No rule shall:

15 (1) be issued except within the power
16 delegated to the secretary and the department as authorized by
17 law; and

18 (2) take effect after July 1, 2013 that has
19 not been submitted to the New Mexico legislative council for
20 review."