

HOUSE BILL 251

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; CREATING A HIGHER EDUCATION
COORDINATING COUNCIL; PROVIDING POWERS AND DUTIES; HAVING THE
COUNCIL UNDERTAKE CERTAIN STATE BOARD OF FINANCE DUTIES
PERTAINING TO PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.

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

SECTION 1. Section 9-25-1 NMSA 1978 (being Laws 2005,
Chapter 289, Section 1) is amended to read:

"9-25-1. SHORT TITLE.-- [~~Sections 1 through 13 of this act~~] Chapter 9, Article 25 NMSA 1978 may be cited as the

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"Higher Education Department Act".

SECTION 2. Section 9-25-3 NMSA 1978 (being Laws 2005, Chapter 289, Section 3) is amended to read:

"9-25-3. DEFINITIONS.--As used in the Higher Education Department Act:

A. "[~~board~~] council" means the higher education [~~advisory board~~] coordinating council;

B. "department" means the higher education department; and

C. "secretary" means the secretary of higher education."

SECTION 3. Section 9-25-10 NMSA 1978 (being Laws 2005, Chapter 289, Section 10) is amended to read:

"9-25-10. HIGHER EDUCATION [~~ADVISORY BOARD~~] COORDINATING COUNCIL--MEMBERSHIP--TERMS--ADMINISTRATIVE ATTACHMENT--PURPOSE.--

A. The "higher education [~~advisory board~~] coordinating council" is created to advise the department and the governor on higher education policy matters, coordinate the development and implementation of the statewide higher education strategic plan and attendant HSEIC→policies ~~and~~←HSEIC goals and perform other functions as provided by law.

The [~~board~~] council is administratively attached to the department, with administrative staff provided by the department.

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~~[B. The secretary shall appoint fourteen members giving due regard to geographic representation, cultural diversity and the composition of higher education institutions in New Mexico. Four members shall represent the four-year public post-secondary educational institutions, one of whom shall represent the university of New Mexico, one of whom shall represent New Mexico state university, one of whom shall represent New Mexico institute of mining and technology and one of whom shall represent either New Mexico highlands university, eastern New Mexico university or western New Mexico university; three members shall represent the two-year public post-secondary educational institutions; one member shall represent the accredited private post-secondary educational institutions; one member shall represent business; one member shall represent college and university faculty; one member shall represent college and university nonfaculty staff; one member shall be a college or university student; one representative of the tribal colleges in New Mexico; and one representative of the Indian nations, tribes and pueblos in New Mexico. The members representing the categories of post-secondary educational institutions shall be the chief executive officers of the institutions of those categories or the chief executive officers' designees. The members representing faculty and nonfaculty staff and the student member shall be the leaders of faculty, staff and student organizations at their respective~~

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institutions.]

B. The council shall consist of the following members:

(1) the secretary of higher education, who shall serve as the HSEIC→chairperson chair←HSEIC;

(2) the chief executive officer of a state HSEIC→~~university or the officer's designee, rotating among the state universities every four years, appointed by the council of university presidents;~~

~~(3) the chief executive officer of a state branch community college or the officer's designee, rotating among the state branch community colleges every two years, appointed by the association of community colleges;~~

~~(4) the chief executive officer of a public independent community college or the officer's designee, rotating among the public independent community colleges every three years, appointed by the governor on the recommendation of the New Mexico association of independent community colleges;~~

~~(5) the chief financial officer of a state university or the officer's designee, rotating among the universities every two years, appointed by the council of university presidents;~~

~~(6) the chief financial officer of a public independent community college or the officer's designee, rotating among the public independent community colleges every~~

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~~four years, appointed by the governor on the recommendation of
the association of independent community colleges;~~

~~(7) the chief executive officer of a tribal
college or branch campus located in New Mexico or the officer's
designee, rotating among the tribal colleges or branches every
two years, appointed by the governor;~~ research university or
the officer's designee appointed by the council of university
presidents for an initial term of four years, rotating among
the state research universities every four years;

(3) the chief executive officer of a state
comprehensive university or the officer's designee appointed by
the council of university presidents for an initial term of
four years, rotating among the state comprehensive universities
every four years;

(4) the chief executive officer of a state
branch community college or the officer's designee appointed by
the New Mexico association of community colleges for an initial
term of two years, rotating among the state branch community
colleges every two years;

(5) the chief executive officer of a public
independent community college or the officer's designee
appointed by New Mexico independent community colleges for an
initial term of two years, rotating among the state independent
community colleges every two years;

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(6) the chief financial officer of a state research university or the officer's designee appointed by the council of university presidents for an initial term of two years, rotating among the state research universities every two years;

(7) the chief financial officer of a state comprehensive university or the officer's designee appointed by the council of university presidents for an initial term of two years, rotating among the state comprehensive universities every two years;

(8) the chief financial officer of a public independent community college or the officer's designee appointed by New Mexico independent community colleges for an initial term of four years, rotating among the independent community colleges every four years;

(9) the chief executive officer of a tribal college located in New Mexico or the officer's designee appointed by the governor in consultation with the secretaries of higher education and Indian affairs for an initial term of three years, rotating among the New Mexico tribal colleges every three years; ←HSEIC

HSEIC → ~~(8)~~ (10) ←HSEIC the following ex-officio members or their designees:

(a) the secretary of public education;

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(b) the secretary of workforce solutions; and

(c) the secretary of economic development; HSEIC→and←HSEIC

~~HSEIC→(9) three public members with expertise in business or finance, appointed by the governor, one for an initial term of four years, one for an initial term of three years and one for an initial term of two years; thereafter, terms shall be for four years and public members may be reappointed at the end of their terms.←HSEIC~~

HSEIC→(11) three public members with expertise in education, research, business or finance to serve permanent staggered terms of four years, as follows:

(a) one member appointed by the governor in consultation with the secretary of higher education for an initial term of four years;

(b) one member appointed by the president pro tempore of the senate for an initial term of three years; and

(c) one member appointed by the speaker of the house of representatives for an initial term of two years; and

(12) one student member appointed by the governor for a term of two years; provided that the student

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member shall cease to be a member if the student disenrolls or graduates with an undergraduate degree from the college and a new student member shall be appointed to finish the leaving student's term.←HSEIC

C. [~~Four members of the initial board, including the student member, shall be appointed for two years, five members shall be appointed for three years and five members shall be appointed for four years; thereafter, the student member shall serve a two-year term and the other members shall serve four-year terms.~~] Public members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

D. The [~~board~~] council shall annually elect a HSEIC→~~[chair] vice [chair] chairperson~~ vice chair←HSEIC and secretary from among its membership. A majority of the members constitutes a quorum for the conduct of business.

E. The [~~board~~] council shall meet at the call of the chair at least quarterly. Meetings of the [~~board~~] council shall be held in Santa Fe and at other sites within the state at the direction of the [~~board~~] HSEIC→~~council~~ chair←HSEIC. The council is subject to the Open Meetings Act. Meetings shall be webcast, recorded and archived.

F. The council shall:

(1) coordinate ongoing discussions and

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analyses of:

(a) ways to improve New Mexico's higher education system and the services provided to New Mexico residents by each post-secondary educational institution in New Mexico; and

(b) possibilities of improving operational and financial efficiencies in the system; and

(2) with the department, develop and update a statewide higher education strategic plan and monitor the progress of HSEIC→~~the department and~~←HSEIC the institutions in meeting the goals of the strategic plan."

SECTION 4. Section 9-25-13 NMSA 1978 (being Laws 2005, Chapter 289, Section 13) is amended to read:

"9-25-13. ADVISORY COMMITTEES.--

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

B. All members of advisory committees are entitled

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to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance."

SECTION 5. Section 21-1-21 NMSA 1978 (being Laws 1971, Chapter 235, Section 4) is amended to read:

"21-1-21. CAPITAL EXPENDITURES.--No expenditure shall be made by any state educational institution confirmed by Article 12, Section 11 of the [state] constitution of New Mexico for the purchase of real property or the construction of buildings or other major structures or for major remodeling projects without prior approval of the proposed purchase, [or] construction or remodeling by the [board of educational finance] higher education department HSEIC→~~and the [state board of finance] higher education coordinating council~~←HSEIC."

HSEIC→~~SECTION 6. Section 21-1-21.1 NMSA 1978 (being Laws 2001, Chapter 319, Section 22) is amended to read:~~

~~"21-1-21.1. STATE EDUCATIONAL INSTITUTIONS--ADEQUATE PARKING.--The staff architect of a university, or the [commission on] higher education department in the case of state educational facilities that do not employ a staff architect, shall review all plans for the construction or major enlargement of a state educational facility prior to the execution of a contract for such work and shall certify to the [state board of finance] higher education coordinating council that adequate parking is provided for the use of staff employed~~

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~~in the facility, students who attend classes or events in the facility and members of the public reasonably expected to enter the facility. If adequate parking is not provided for, no contract may be entered into."~~←HSEIC

SECTION HSEIC→7 6←HSEIC. Section 21-1-24 NMSA 1978 (being Laws 1971, Chapter 235, Section 3) is amended to read:

"21-1-24. GRADUATE PROGRAMS.--None of the funds appropriated in the general [~~appropriations act~~] appropriation acts to the state educational institutions confirmed by Article 12, Section 11 of the [~~state~~] constitution of New Mexico may be used for the support of any program [~~or programs~~] of graduate study beyond the level of the bachelor's degree other than programs that were maintained by each institution previous to September 1, 1954, except by explicit approval of each program by the [~~board of educational finance~~] higher education department HSEIC→~~and the [state board of finance] higher education coordinating council prior to [such] the use of the funds~~←HSEIC."

SECTION HSEIC→8 7←HSEIC. Section 21-1-26.9 NMSA 1978 (being Laws 1998, Chapter 61, Section 2, as amended) is amended to read:

"21-1-26.9. LIMITATION--HIGHER EDUCATION DEPARTMENT--REVIEW OF PROPOSED CAMPUSES.--Effective January 1, 1998, no new public post-secondary educational institution, branch campus or off-campus instructional center shall be created except as

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specifically created by the legislature. The higher education department and the higher education coordinating council shall review any proposal for the establishment of a new public post-secondary educational institution or campus and submit ~~its~~ their recommendations to the legislature. In reviewing proposals, the department and the council may consider:

- A. provisions for a local mill levy of at least two mills;
- B. population base to provide at least five hundred full-time students;
- C. whether at least fifty percent of the costs of initial construction comes from private or local sources;
- D. governance structure;
- E. means for acquisition of property, including purchase, lease, donations or any other means;
- F. eligibility and level of funding request of the state; and
- G. brokering of extended learning provisions."

SECTION HSEIC→9 8←HSEIC. Section 21-1-26.12 NMSA 1978 (being Laws 2005, Chapter 289, Section 14) is amended to read:

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

A. The higher education department shall, [~~through consultation~~] with the assistance of the higher education coordinating council and all public post-secondary educational

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institutions, develop and publish a statement of statewide educational needs and guidelines to assist the institutions in the development or modification of institutional strategic plans. The department, with the assistance of the higher education coordinating council, may conduct studies of statewide educational needs and make recommendations to the governor, the legislature and public post-secondary educational institutions.

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

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

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

SECTION HSEIC→10 9←HSEIC. Section 21-2-3 NMSA 1978 (being Laws 1973, Chapter 233, Section 3, as amended) is amended to read:

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

[~~There is created~~] The "state commission on post-secondary education" is created. The [~~commission on~~] higher education coordinating council is designated the state commission and shall work closely with the higher education department when undertaking the commission duties. For the purposes of the

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Post-Secondary Educational Planning Act, the [~~commission on higher education~~] council, in functioning as the state commission, is charged with a concern for all types of post-secondary education and all types of educational institutions and programs as enumerated in Section 21-2-2 NMSA 1978. Whenever federal statutes and regulations so require, the state commission may request the HSEIC→~~governor~~ secretary of higher education←HSEIC to appoint, for specific functions relating to federally sponsored programs, supplementary members to the state commission, and members shall be appointed by the HSEIC→~~governor~~ secretary←HSEIC to fulfill those specific functions as requested. When sitting with the state commission, the supplementary members shall have, for purposes of the specific functions for which they were appointed, all the powers and perquisites of regular members of the state commission."

SECTION HSEIC→~~11~~ 10←HSEIC. Section 21-2-5.1 NMSA 1978 (being Laws 1988, Chapter 164, Section 1, as amended) is amended to read:

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

A. The [~~commission on~~] higher education department shall develop a funding formula that will provide funding for each institution of higher education to accomplish its mission as determined by [a] the statewide plan.

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

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

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

(3) eliminate unnecessary, unproductive or duplicative programs;

(4) consider faculty salaries and benefits adjustment to a competitive level with similar institutions in similar states, when such compensation adjustments are supported by detailed analyses of faculty workloads and educational outcomes assessments, and nonteaching staff salaries and benefits at a competitive level with other similar public or private sector employment in the community in which the institution is situated;

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

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

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

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- (8) provide incentives to institutions to pursue private or alternative funding sources;
- (9) encourage the sharing of expertise, equipment and facilities and development of joint instructional programs, research and public service projects;
- (10) implement uniform articulation agreements and facilitation of transfer of students between institutions;
- (11) encourage energy conservation;
- (12) require mechanisms to track expenditures to ensure greater accountability; and
- (13) require each institution of higher education that offers distance learning and computer-based courses of study to provide accompanying electronic formats that are usable by an individual with a disability using assistive technology, and those formats shall be based on the American standard code for information interchange, hypertext markup language and extensible markup language."

SECTION HSEIC→12 11←HSEIC. Section 21-2-6 NMSA 1978 (being Laws 1978, Chapter 54, Section 1, as amended) is amended to read:

"21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND PERSONS.--

A. The state commission in carrying out its planning activities for post-secondary education shall consult with HSEIC→~~and invite the active participation of~~←HSEIC:

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(1) the HSEIC→higher education←HSEIC

department;

[←1→] (2) representatives of post-secondary educational institutions of the several types enumerated in Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

[←2→] (3) the public education commission;

[←3→] (4) the public education department;

[←4→] (5) representatives of public and private elementary and secondary schools;

[←5→] (6) the [~~secretary of labor~~] workforce solutions department;

[←6→] (7) the tourism department;

[←7→] (8) the apprenticeship council;

[←8→] (9) the economic development department;

[←9→] (10) the state advisory council on vocational education;

[←10→ ~~the secretary of finance and administration or the secretary's designee;~~]

(11) persons familiar with the education needs of persons with a disability and persons disadvantaged by economic, racial or ethnic status;

(12) representatives of business, industry, organized labor and agriculture;

(13) the general public; and

(14) private in-state post-secondary

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institutions.

B. Whenever the planning activities carried out under the provisions of Section 21-2-5 NMSA 1978 are concerned with the types of post-secondary education enumerated in Subparagraphs (a) through (e) of Paragraph (1) of Subsection A of Section 21-2-2 NMSA 1978, the state commission shall directly involve the public education commission and the public education department in all planning activities."

SECTION HSEIC→13 12←HSEIC. Section 21-2-7 NMSA 1978 (being Laws 1973, Chapter 233, Section 7) is amended to read:

"21-2-7. ANNUAL REPORT.--The state commission shall submit an annual report to the governor and the legislature prior to November 15 each year. [~~Such~~] The report shall describe the planning activities undertaken, present data on the status of all types of post-secondary education and set forth all recommendations developed under Subsections I, J and K of Section [5, Items I, J and K of the Post-Secondary Educational Planning Act] 21-2-5 NMSA 1978. Prior to the final adoption of the annual report, the state commission shall distribute a draft of the report to all institutions and programs of the types enumerated in Paragraph (2) of Subsection A of Section [2A-(2)] 21-2-2 NMSA 1978 and to representatives of all other interests enumerated in Section [~~6~~] 21-2-6 NMSA 1978 and shall then hold a hearing at which all [~~such~~] those institutions, programs and interests may comment upon the draft

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report."

HSEIC→SECTION 13. Section 13-6-2.1 NMSA 1978 (being Laws 1989, Chapter 380, Section 1, as amended) is amended to read:

"13-6-2.1. SALES, TRADES OR LEASES--STATE BOARD OF FINANCE APPROVAL.--

A. Except as provided in Section 13-6-3 NMSA 1978, for state agencies, any sale, trade or lease for a period of more than five years of real property belonging to a state agency, local public body or school district or any sale, trade or lease of such real property for a consideration of more than twenty-five thousand dollars (\$25,000) shall not be valid unless it is approved prior to its effective date by the state board of finance.

B. The provisions of this section shall not be applicable to:

(1) those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico;

(2) the state land office;

(3) the state transportation commission;

(4) the economic development department when disposing of property acquired pursuant to the Statewide Economic Development Finance Act; [or]

(5) a school district when leasing facilities to a locally chartered or state-chartered charter school; or

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(6) a community college organized pursuant to
the Community College Act or a technical and vocational
institute organized pursuant to the Technical and Vocational
Institute Act."←HSEIC

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