

1 HOUSE BILL 251

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales and Patricia A. Lundstrom
5 and Tomás E. Salazar
6
7

8 FOR THE LEGISLATIVE FINANCE COMMITTEE
9

10 AN ACT

11 RELATING TO HIGHER EDUCATION; CREATING A HIGHER EDUCATION
12 COORDINATING COUNCIL; PROVIDING POWERS AND DUTIES; HAVING THE
13 COUNCIL UNDERTAKE CERTAIN STATE BOARD OF FINANCE DUTIES
14 PERTAINING TO PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.
15

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

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

19 "9-25-1. SHORT TITLE.--~~[Sections 1 through 13 of this~~
20 ~~act]~~ Chapter 9, Article 25 NMSA 1978 may be cited as the
21 "Higher Education Department Act"."

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

24 "9-25-3. DEFINITIONS.--As used in the Higher Education
25 Department Act:

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

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

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

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

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

12 A. The "higher education [~~advisory board~~]
13 coordinating council" is created to advise the department and
14 the governor on higher education policy matters, coordinate the
15 development and implementation of the statewide higher
16 education strategic plan and attendant policies and goals and
17 perform other functions as provided by law. The [~~board~~]
18 council is administratively attached to the department, with
19 administrative staff provided by the department.

20 ~~[B. The secretary shall appoint fourteen members~~
21 ~~giving due regard to geographic representation, cultural~~
22 ~~diversity and the composition of higher education institutions~~
23 ~~in New Mexico. Four members shall represent the four-year~~
24 ~~public post-secondary educational institutions, one of whom~~
25 ~~shall represent the university of New Mexico, one of whom shall~~

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1 ~~represent New Mexico state university, one of whom shall~~
2 ~~represent New Mexico institute of mining and technology and one~~
3 ~~of whom shall represent either New Mexico highlands university,~~
4 ~~eastern New Mexico university or western New Mexico university;~~
5 ~~three members shall represent the two-year public post-~~
6 ~~secondary educational institutions; one member shall represent~~
7 ~~the accredited private post-secondary educational institutions;~~
8 ~~one member shall represent business; one member shall represent~~
9 ~~college and university faculty; one member shall represent~~
10 ~~college and university nonfaculty staff; one member shall be a~~
11 ~~college or university student; one representative of the tribal~~
12 ~~colleges in New Mexico; and one representative of the Indian~~
13 ~~nations, tribes and pueblos in New Mexico. The members~~
14 ~~representing the categories of post-secondary educational~~
15 ~~institutions shall be the chief executive officers of the~~
16 ~~institutions of those categories or the chief executive~~
17 ~~officers' designees. The members representing faculty and~~
18 ~~nonfaculty staff and the student member shall be the leaders of~~
19 ~~faculty, staff and student organizations at their respective~~
20 ~~institutions.]~~

21 B. The council shall consist of the following
22 members:

23 (1) the secretary of higher education, who
24 shall serve as the chairperson;

25 (2) the chief executive officer of a state

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1 university or the officer's designee, rotating among the state
2 universities every four years, appointed by the council of
3 university presidents;

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

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

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

17 (6) the chief financial officer of a public
18 independent community college or the officer's designee,
19 rotating among the public independent community colleges every
20 four years, appointed by the governor on the recommendation of
21 the association of independent community colleges;

22 (7) the chief executive officer of a tribal
23 college or branch campus located in New Mexico or the officer's
24 designee, rotating among the tribal colleges or branches every
25 two years, appointed by the governor;

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1 (8) the following ex-officio members or their
2 designees:

3 (a) the secretary of public education;

4 (b) the secretary of workforce
5 solutions; and

6 (c) the secretary of economic
7 development; and

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

14 C. ~~[Four members of the initial board, including~~
15 ~~the student member, shall be appointed for two years, five~~
16 ~~members shall be appointed for three years and five members~~
17 ~~shall be appointed for four years; thereafter, the student~~
18 ~~member shall serve a two-year term and the other members shall~~
19 ~~serve four-year terms.] Public members are entitled to receive~~

20 per diem and mileage as provided in the Per Diem and Mileage

21 Act and shall receive no other perquisite, compensation or

22 allowance.

23 D. The [~~board~~] council shall annually elect a

24 [~~chair~~] vice [~~chair~~] chairperson and secretary from among its

25 membership. A majority of the members constitutes a quorum for

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1 the conduct of business.

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

8 F. The council shall:

9 (1) coordinate ongoing discussions and
10 analyses of:

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

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

17 (2) with the department, develop and update a
18 statewide higher education strategic plan and monitor the
19 progress of the department and the institutions in meeting the
20 goals of the strategic plan."

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

23 "9-25-13. ADVISORY COMMITTEES.--

24 A. ~~[In addition to the higher education advisory~~
25 ~~board]~~ The department may create ~~[other]~~ advisory committees.

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1 "Advisory" means furnishing advice, gathering information,
2 making recommendations and performing such other activities as
3 may be instructed or delegated and as may be necessary to
4 fulfill advisory functions or to comply with federal or private
5 funding requirements and does not extend to administering a
6 program or function or setting policy unless specified by law.
7 Advisory committees shall be appointed in accordance with the
8 provisions of the Executive Reorganization Act.

9 B. All members of advisory committees are entitled
10 to receive per diem and mileage as provided in the Per Diem and
11 Mileage Act and shall receive no other compensation, perquisite
12 or allowance."

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

15 "21-1-21. CAPITAL EXPENDITURES.--No expenditure shall be
16 made by any state educational institution confirmed by Article
17 12, Section 11 of the [~~state~~] constitution of New Mexico for
18 the purchase of real property or the construction of buildings
19 or other major structures or for major remodeling projects
20 without prior approval of the proposed purchase, [~~or~~]
21 construction or remodeling by the [~~board of educational~~
22 ~~finance~~] higher education department and the [~~state board of~~
23 ~~finance~~] higher education coordinating council."

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

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1 "21-1-21.1. STATE EDUCATIONAL INSTITUTIONS--ADEQUATE
2 PARKING.--The staff architect of a university, or the
3 [~~commission on~~] higher education department in the case of
4 state educational facilities that do not employ a staff
5 architect, shall review all plans for the construction or major
6 enlargement of a state educational facility prior to the
7 execution of a contract for such work and shall certify to the
8 [~~state board of finance~~] higher education coordinating council
9 that adequate parking is provided for the use of staff employed
10 in the facility, students who attend classes or events in the
11 facility and members of the public reasonably expected to enter
12 the facility. If adequate parking is not provided for, no
13 contract may be entered into."

14 **SECTION 7.** Section 21-1-24 NMSA 1978 (being Laws 1971,
15 Chapter 235, Section 3) is amended to read:

16 "21-1-24. GRADUATE PROGRAMS.--None of the funds
17 appropriated in the general [~~appropriations act~~] appropriation
18 acts to the state educational institutions confirmed by Article
19 12, Section 11 of the [~~state~~] constitution of New Mexico may be
20 used for the support of any program [~~or programs~~] of graduate
21 study beyond the level of the bachelor's degree other than
22 programs that were maintained by each institution previous to
23 September 1, 1954, except by explicit approval of each program
24 by the [~~board of educational finance~~] higher education
25 department and the [~~state board of finance~~] higher education

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1 coordinating council prior to [~~such~~] the use of the funds."

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

4 "21-1-26.9. LIMITATION--HIGHER EDUCATION DEPARTMENT--
5 REVIEW OF PROPOSED CAMPUSES.--Effective January 1, 1998, no new
6 public post-secondary educational institution, branch campus or
7 off-campus instructional center shall be created except as
8 specifically created by the legislature. The higher education
9 department and the higher education coordinating council shall
10 review any proposal for the establishment of a new public post-
11 secondary educational institution or campus and submit [~~its~~]
12 their recommendations to the legislature. In reviewing
13 proposals, the department and the council may consider:

14 A. provisions for a local mill levy of at least two
15 mills;

16 B. population base to provide at least five hundred
17 full-time students;

18 C. whether at least fifty percent of the costs of
19 initial construction comes from private or local sources;

20 D. governance structure;

21 E. means for acquisition of property, including
22 purchase, lease, donations or any other means;

23 F. eligibility and level of funding request of the
24 state; and

25 G. brokering of extended learning provisions."

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1 **SECTION 9.** Section 21-1-26.12 NMSA 1978 (being Laws
2 2005, Chapter 289, Section 14) is amended to read:

3 "21-1-26.12. EDUCATIONAL NEEDS AND GUIDELINES--
4 ACCOUNTABILITY REPORTS.--

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

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

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

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

23 **SECTION 10.** Section 21-2-3 NMSA 1978 (being Laws 1973,
24 Chapter 233, Section 3, as amended) is amended to read:

25 "21-2-3. STATE COMMISSION CREATED--DESIGNATED MEMBERS--

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1 DESIGNATION OF SUPPLEMENTARY MEMBERS FOR SPECIFIC FUNCTIONS.--

2 [~~There is created~~] The "state commission on post-secondary
3 education" is created. The [~~commission on~~] higher education
4 coordinating council is designated the state commission and
5 shall work closely with the higher education department when
6 undertaking the commission duties. For the purposes of the
7 Post-Secondary Educational Planning Act, the [~~commission on~~
8 ~~higher education~~] council, in functioning as the state
9 commission, is charged with a concern for all types of post-
10 secondary education and all types of educational institutions
11 and programs as enumerated in Section 21-2-2 NMSA 1978.
12 Whenever federal statutes and regulations so require, the state
13 commission may request the governor to appoint, for specific
14 functions relating to federally sponsored programs,
15 supplementary members to the state commission, and members
16 shall be appointed by the governor to fulfill those specific
17 functions as requested. When sitting with the state
18 commission, the supplementary members shall have, for purposes
19 of the specific functions for which they were appointed, all
20 the powers and perquisites of regular members of the state
21 commission."

22 SECTION 11. Section 21-2-5.1 NMSA 1978 (being Laws 1988,
23 Chapter 164, Section 1, as amended) is amended to read:

24 "21-2-5.1. FUNDING FORMULA.--

25 A. The [~~commission on~~] higher education department

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1 shall develop a funding formula that will provide funding for
2 each institution of higher education to accomplish its mission
3 as determined by [~~a~~] the statewide plan.

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

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

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

12 (3) eliminate unnecessary, unproductive or
13 duplicative programs;

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

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

24 (6) provide for equipment and equipment
25 maintenance and library acquisitions and operations since the

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1 development of the prior funding formula;

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

5 (8) provide incentives to institutions to
6 pursue private or alternative funding sources;

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

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

12 (11) encourage energy conservation;

13 (12) require mechanisms to track expenditures
14 to ensure greater accountability; and

15 (13) require each institution of higher
16 education that offers distance learning and computer-based
17 courses of study to provide accompanying electronic formats
18 that are usable by an individual with a disability using
19 assistive technology, and those formats shall be based on the
20 American standard code for information interchange, hypertext
21 markup language and extensible markup language."

22 **SECTION 12.** Section 21-2-6 NMSA 1978 (being Laws 1978,
23 Chapter 54, Section 1, as amended) is amended to read:

24 "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND
25 PERSONS.--

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1 A. The state commission in carrying out its
2 planning activities for post-secondary education shall consult
3 with and invite the active participation of:

4 (1) the department;

5 ~~[(1)]~~ (2) representatives of post-secondary
6 educational institutions of the several types enumerated in
7 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

8 ~~[(2)]~~ (3) the public education commission;

9 ~~[(3)]~~ (4) the public education department;

10 ~~[(4)]~~ (5) representatives of public and
11 private elementary and secondary schools;

12 ~~[(5)]~~ (6) the ~~[secretary of labor]~~ workforce
13 solutions department;

14 ~~[(6)]~~ (7) the tourism department;

15 ~~[(7)]~~ (8) the apprenticeship council;

16 ~~[(8)]~~ (9) the economic development department;

17 ~~[(9)]~~ (10) the state advisory council on
18 vocational education;

19 ~~[(10) the secretary of finance and~~
20 ~~administration or the secretary's designee;]~~

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

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

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1 (13) the general public; and

2 (14) private in-state post-secondary
3 institutions.

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

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

13 "21-2-7. ANNUAL REPORT.--The state commission shall
14 submit an annual report to the governor and the legislature
15 prior to November 15 each year. [~~Such~~] The report shall
16 describe the planning activities undertaken, present data on
17 the status of all types of post-secondary education and set
18 forth all recommendations developed under Subsections I, J and
19 K of Section [5, Items I, J and K of the Post-Secondary
20 Educational Planning Act] 21-2-5 NMSA 1978. Prior to the final
21 adoption of the annual report, the state commission shall
22 distribute a draft of the report to all institutions and
23 programs of the types enumerated in Paragraph (2) of Subsection
24 A of Section [2A-(2)] 21-2-2 NMSA 1978 and to representatives
25 of all other interests enumerated in Section [~~6~~] 21-2-6 NMSA

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1 1978 and shall then hold a hearing at which all [~~such~~] those
2 institutions, programs and interests may comment upon the draft
3 report."

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