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SENATE BILL 671

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RAYMOND L. KYSAR

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR A SECRETARY OF  
EDUCATION; SPECIFYING POWERS AND DUTIES; ABOLISHING THE STATE  
BOARD OF EDUCATION; AMENDING, REPEALING AND ENACTING SECTIONS OF  
THE NMSA 1978.

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

Section 1. [NEW MATERIAL] SECRETARY OF EDUCATION--  
APPOINTMENT.--

A. The chief executive and administrative officer of  
the state department of public education is the "secretary of  
education". The secretary shall be appointed by the governor  
with the advice and consent of the senate. The secretary shall  
hold office at the pleasure of the governor and shall serve in  
the executive cabinet.

B. A person appointed as secretary shall serve and

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1 have all the duties, responsibilities and authority of that  
2 office during the period of time prior to the final action by  
3 the senate confirming or rejecting his appointment.

4 Section 2. [NEW MATERIAL] SECRETARY OF EDUCATION--GENERAL  
5 POWERS AND DUTIES. --

6 A. The secretary of education is responsible to the  
7 governor for the operation of the state department of public  
8 education and to administer and enforce the laws with which the  
9 department is charged.

10 B. The secretary shall exercise general supervisory  
11 and appointive power over the department employees, subject to  
12 applicable personnel and other laws and regulations.

13 Section 3. [NEW MATERIAL] STATE BOARD ABOLISHED. -- On the  
14 effective date of this act, the state board of education is  
15 abolished.

16 Section 4. Section 22-1-2 NMSA 1978 (being Laws 1967,  
17 Chapter 16, Section 2, as amended) is amended to read:

18 "22-1-2. DEFINITIONS. -- As used in the Public School Code:

19 A. "state board" means the [~~state board of~~  
20 ~~education~~] department;

21 B. "state superintendent" means the [~~superintendent~~  
22 ~~of public instruction~~] secretary;

23 C. "department" [~~of education~~] means the state  
24 department of public education;

25 D. "certified school instructor" means any person

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1 holding a valid certificate authorizing the person to teach,  
2 supervise an instructional program, counsel or provide special  
3 instructional services in the public schools of the state;

4 E. "certified school administrator" means any person  
5 holding a valid certificate authorizing the person to administer  
6 in the public schools of the state;

7 F. "certified school employee" or "certified school  
8 personnel" means any employee who is either a certified school  
9 instructor or a certified school administrator or both;

10 G. "non-certified school employee" means any  
11 employee who is not a certified school employee;

12 H. "certificate" means a certificate issued by the  
13 [~~state board~~] department authorizing a person to teach,  
14 supervise an instructional program, counsel, provide special  
15 instructional services or administer in the public schools of  
16 the state;

17 I. "chief" or "director" means the [~~state~~  
18 ~~superintendent~~] secretary or his designee unless the context  
19 clearly indicates otherwise;

20 J. "private school" means a school offering on-site  
21 programs of instruction not under the control, supervision or  
22 management of a local school board, exclusive of home  
23 instruction offered by the parent, guardian or one having  
24 custody of the student;

25 K. "school district" means an area of land

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1 established as a political subdivision of the state for the  
2 administration of public schools and segregated geographically  
3 for taxation and bonding purposes;

4 L. "local school board" means the governing body of  
5 a school district;

6 M "public school" means that part of a school  
7 district that is a single attendance center where instruction is  
8 offered by a certified school instructor or a group of certified  
9 school instructors and is discernible as a building or group of  
10 buildings generally recognized as either an elementary,  
11 secondary, junior high or high school or any combination  
12 thereof;

13 N. "school year" means the total number of teaching  
14 days offered by public schools in a school district during a  
15 period of twelve consecutive months;

16 O. "consolidation" means the combination of part or  
17 all of the geographical area of an existing school district with  
18 part or all of the geographical area of one or more contiguous  
19 existing school districts;

20 P. "consolidated school district" means a school  
21 district created by order of the [~~state board~~] department by  
22 combining part or all of the geographical area of an existing  
23 school district with part or all of the geographical area of one  
24 or more contiguous existing school districts;

25 Q. "state institution" means the New Mexico military

1 institute, the New Mexico school for the visually handicapped,  
2 the New Mexico school for the deaf, the New Mexico boys' school,  
3 the New Mexico youth diagnostic and development center, the Los  
4 Lunas medical center, [~~the Fort Stanton hospital~~] the Las Vegas  
5 medical center or the Carrie Tingley crippled children's  
6 hospital;

7 R. "state educational institution" means an  
8 institution enumerated in Article 12, Section 11 of the  
9 constitution of New Mexico;

10 S. "forty-day report" means the report of qualified  
11 student membership of each school district and of those eligible  
12 to be qualified students but enrolled in a private school or a  
13 home school for the first forty days of school;

14 T. "school" means any supervised program of  
15 instruction designed to educate a person in a particular place,  
16 manner and subject area;

17 U. "school-age person" means any person who is at  
18 least five years of age prior to 12:01 a.m. on September 1 of  
19 the school year and who has not received a high school diploma  
20 or its equivalent. A maximum age of twenty-one shall be used  
21 for persons who are classified as special education membership  
22 as defined in Section 22-8-2 NMSA 1978 or as residents of state  
23 institutions;

24 V. "home school" means the operation by a parent,  
25 guardian or other person having custody of a school-age person

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1 who instructs a home study program that provides a basic  
2 academic educational program, including but not limited to  
3 reading, language arts, mathematics, social studies and science;  
4 [and]

5 W. "school building" means a public school, an  
6 administration building and related school structure or  
7 facilities, including teacher housing, as may be owned, acquired  
8 or constructed by the local school board and as necessary to  
9 carry out the powers and duties of the local school board; and

10 X. "secretary" means the secretary of education."

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

13 "22-2-1. [~~STATE BOARD~~] DEPARTMENT- - POWERS. - -

14 A. The [~~state board~~] department is the governing  
15 authority and shall have control, management and direction of  
16 all public schools, except as otherwise provided by law.

17 B. The [~~state board~~] department may promulgate,  
18 publish and enforce regulations to exercise its authority  
19 granted pursuant to the Public School Code.

20 C. The [~~state board~~] department may apply to the  
21 district court for an injunction, writ of mandamus or other  
22 appropriate relief to enforce the provisions of the Public  
23 School Code or any of its regulations promulgated pursuant to  
24 the Public School Code.

25 D. The [~~state board~~] department may waive provisions

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1 of the Public School Code as authorized by law. "

2 Section 6. Section 22-2-2 NMSA 1978 (being Laws 1967,  
3 Chapter 16, Section 5, as amended) is amended to read:

4 "22-2-2. [~~STATE BOARD~~] DEPARTMENT--OTHER DUTIES. -- Without  
5 limiting those powers granted to the [~~state board~~] department  
6 pursuant to Section 22-2-1 NMSA 1978, the [~~state board~~]  
7 department under the supervision and direction of the secretary  
8 shall perform the following duties:

9 A. properly and uniformly enforce the provisions of  
10 the Public School Code;

11 B. [~~determine~~] administer policy for the operation  
12 of all public schools and vocational education programs in the  
13 state;

14 [~~C.--appoint a state superintendent;~~

15 ~~D.-] C. purchase and loan instructional material to~~

16 students pursuant to the Instructional Material Law and adopt

17 regulations relating to the use and operation of instructional

18 material depositories in the instructional material distribution

19 process;

20 [~~E.-] D. designate courses of instruction to be~~

21 taught in all public schools in the state;

22 [~~F.-] E. assess and evaluate all state institutions~~

23 and those private schools that desire state accreditation;

24 [~~G.-] F. determine the qualifications for and issue a~~

25 certificate to any person teaching, assisting teachers,

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1 supervising an instructional program, counseling, providing  
2 special instructional services or administering in public  
3 schools, according to law and according to a system of  
4 classification adopted and published by the [~~state board~~]  
5 department;

6 [H-] G. suspend or revoke a certificate held by a  
7 certified school instructor or certified school administrator,  
8 according to law, for incompetency, immorality or for any other  
9 good and just cause;

10 [I-] H. make full and complete reports on  
11 consolidation of school districts to the legislature;

12 [J-] I. prescribe courses of instruction,  
13 requirements for graduation and standards for all public  
14 schools, for private schools seeking state accreditation and for  
15 the educational programs conducted in state institutions other  
16 than the New Mexico military institute;

17 [K-] J. adopt regulations for the administration of  
18 all public schools and bylaws for its own administration;

19 [L-] K. require periodic reports on forms prescribed  
20 by it from all public schools and attendance reports from  
21 private schools;

22 [M-] L. authorize adult educational programs to be  
23 conducted in schools under its jurisdiction and promulgate and  
24 publish regulations governing all such adult educational  
25 programs;



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1           ~~[N.]~~ M. require any school under its jurisdiction  
2 that sponsors athletic programs involving sports to mandate that  
3 the participating student obtain catastrophic health and  
4 accident insurance coverage, such coverage to be offered through  
5 the school and issued by an insurance company duly licensed  
6 pursuant to the laws of New Mexico;

7           ~~[O.]~~ N. require all accrediting agencies for public  
8 schools in the state to act with its approval;

9           ~~[P.]~~ O. accept and receive all grants of money from  
10 the federal government or any other agency for public school  
11 purposes and disburse the money in the manner and for the  
12 purpose specified in the grant;

13           ~~[Q.]~~ P. require prior approval for any educational  
14 program in a public school that is to be conducted, sponsored,  
15 carried on or caused to be carried on by a private organization  
16 or agency;

17           ~~[R.]~~ Q. approve or disapprove all rules or  
18 regulations promulgated by any association or organization  
19 attempting to regulate any public school activity and invalidate  
20 any rule or regulation in conflict with any regulation  
21 promulgated by the ~~[state-board]~~ department. The ~~[state-board]~~  
22 department may require performance and financial audits of any  
23 association or organization attempting to regulate any public  
24 school activity. The ~~[state-board]~~ department shall have no  
25 power or control over the rules or regulations or the bylaws

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1 governing the administration of the internal organization of the  
2 association or organization;

3 [S-] R. review decisions made by the governing board  
4 or officials of any organization or association regulating any  
5 public school activity, and any decision of the [state-board]  
6 department shall be final in respect thereto;

7 [T-] S. accept or reject any charitable gift, grant,  
8 devise or bequest. The particular gift, grant, devise or  
9 bequest accepted shall be considered an asset of the state;

10 [U-] T. establish and maintain regional centers, at  
11 its discretion, for conducting cooperative services between  
12 public schools and school districts within and among those  
13 regions and to facilitate regulation and evaluation of school  
14 programs;

15 [V-] U. assess and evaluate for accreditation  
16 purposes at least one-third of all public schools each year  
17 through visits by department [~~of education~~] personnel to  
18 investigate the adequacy of pupil gain in standard required  
19 subject matter, adequacy of pupil activities, functional  
20 feasibility of public school and school district organization,  
21 adequacy of staff preparation and other matters bearing upon the  
22 education of the students;

23 [W-] V. provide for management and other necessary  
24 personnel to operate any public school or school district that  
25 has failed to meet requirements of law, [state-board] department

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1 standards or [~~state board~~] department regulations; provided that  
2 the operation of the public school or school district shall not  
3 include any consolidation or reorganization without the approval  
4 of the local board of that school district. Until such time as  
5 requirements of law, standards or regulations have been met and  
6 compliance is assured, the powers and duties of the local school  
7 board shall be suspended;

8 [X.] W. establish and implement a plan that provides  
9 for technical assistance to local school boards through  
10 workshops and other in-service training methods; provided,  
11 however, that no plan shall require mandatory attendance by any  
12 member of a local school board;

13 [Y.] X. submit a plan applying for funds available  
14 under Public Law 94-142 and disburse these funds in the manner  
15 and for the purposes specified in the plan; and

16 [Z.] Y. enforce requirements for home schools. Upon  
17 finding that a home school is not in compliance with law, the  
18 [~~state board~~] department shall have authority to order that a  
19 student attend a public school or a private school. "

20 Section 7. Section 22-2-6 NMSA 1978 (being Laws 1967,  
21 Chapter 16, Section 9, as amended) is amended to read:

22 "22-2-6. DEPARTMENT OF EDUCATION--DUTIES.--Subject to the  
23 policies, [~~of the state board and the~~] supervision and direction  
24 of the [~~state superintendent~~] secretary, the department [~~of~~  
25 ~~education~~] shall have the following duties:

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1           A. supervise all schools and school officials coming  
2 under the jurisdiction of the [~~state board~~] department;

3           B. advise boards of regents of state educational  
4 institutions on matters concerning the Public School Code;

5           C. prescribe, print and distribute forms to carry  
6 out the duties of the [~~state board~~] department pursuant to the  
7 Public School Code;

8           D. annually, prior to December 1, prepare and  
9 publish a report on public and private education in the state  
10 and distribute the report to the governor and the legislature;

11           E. keep accurate records of all money received by  
12 the [~~state superintendent~~] secretary or the department [~~of~~  
13 ~~education~~];

14           F. publish and distribute copies of the Public  
15 School Code and regulations promulgated by the [~~state board~~]  
16 department to local school boards in the state;

17           G. confer with local school boards and certified  
18 school personnel on matters concerning education in the state;

19           H. prepare and distribute patriotic material to  
20 schools in the state; and

21           I. evaluate all educational programs in state  
22 institutions [~~under the authority of the secretary of the health~~  
23 ~~and environment department~~]. "

24           Section 8. REPEAL. -- Sections 22-2-3 through 22-2-5 and  
25 22-3-37 through 22-3-54 NMSA 1978 (being Laws 1967, Chapter 16,

. 116309. 1GJ

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1 Sections 6 through 8 and Laws 1991 (1st S. S.), Chapter 4,  
2 Sections 1 through 18, as amended) are repealed.

3 Section 9. EFFECTIVE DATE. -- The provisions of this act  
4 shall become effective upon certification by the secretary of  
5 state that the constitution of New Mexico has been amended as  
6 proposed by a joint resolution of the forty-third legislature,  
7 first session entitled "A JOINT RESOLUTION PROPOSING AN  
8 AMENDMENT TO ARTICLE 12, SECTION 6 OF THE CONSTITUTION OF NEW  
9 MEXICO TO ABOLISH THE STATE BOARD OF EDUCATION. ".

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