

AN ACT

RELATING TO EDUCATION; LIMITING THE NUMBER OF UNIVERSITIES, BRANCH CAMPUSES, COMMUNITY COLLEGES, BRANCH COMMUNITY COLLEGES, TECHNICAL AND VOCATIONAL INSTITUTES, AREA VOCATIONAL SCHOOLS AND OFF-CAMPUS INSTRUCTION CENTERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 21-1-39 NMSA 1978 (being Laws 1997, Chapter 167, Section 1) is amended to read:

"21-1-39. LEGISLATIVE FINDINGS. --The legislature finds that the state currently has six universities established by the constitution of New Mexico. The legislature has authorized these institutions to create branches of their institutions in conjunction with local school districts. The legislature also finds that proliferation of post-secondary educational institutions is not in the best interest of the state."

Section 2. A new section of Chapter 21, Article 1 NMSA 1978 is enacted to read:

"LIMITATION-- COMMISSION ON HIGHER EDUCATION-- 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

specifically created by the legislature. The commission on higher education shall review any proposal for the establishment of a new public post-secondary educational institution or campus and submit its recommendations to the legislature. In reviewing proposals, the commission 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. 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 3. Section 21-13-2 NMSA 1978 (being Laws 1963, Chapter 17, Section 2, as amended) is amended to read:

"21-13-2. DEFINITIONS. --As used in the Community College Act:

- A. "community college" means a public educational institution that provides not to exceed two years of training in the arts, sciences and humanities beyond the

twelfth grade of the public high school curriculum or, in lieu of that training or in addition to it, not to exceed two years of a vocational and technical curriculum and appropriate courses of study for persons who may or may not have completed the twelfth grade of public high school;

B. "community college district" means a district in which a community college is located, which district is composed of the territory of one or more school districts of the state. For the purposes of relating community college districts to existing law, community college districts and the community colleges thereof shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the state board of education under Article 12, Section 6 of the constitution of New Mexico; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the

constitution of New Mexico are concerned; and

C. "qualified elector" means a person otherwise eligible to vote within the community college district."

Section 4. Section 21-13-8 NMSA 1978 (being Laws 1963, Chapter 17, Section 7, as amended) is amended to read:

"21-13-8. COMMUNITY COLLEGE BOARD. --

A. Board members shall be over twenty-one years of age, qualified electors and residents of the community college district.

B. Board members shall be elected for staggered terms of six years from April 1 succeeding their elections; provided that terms and staggering shall continue to be as they are on January 1, 1998. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members. An individual appointed by the remaining members of the board to fill a vacancy in office shall serve until the next community college board election, at which time candidates shall file for and be elected to fill the vacant position to serve the remainder of the unexpired term.

C. The "_____ community college board" shall select from its members a chairman and secretary who shall serve in these offices until the next regular community college board election. After each "_____ community college board" election, the

members shall proceed to reorganize. "

Section 5. A new section of the Community College Act is enacted to read:

"LIMITATIONS ON COMMUNITY COLLEGES. -- There shall be no new community college, branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature. "

Section 6. Section 21-14-2 NMSA 1978 (being Laws 1963, Chapter 162, Section 2, as amended) is amended to read:

"21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT INSTITUTION--ELECTIONS. --

A. As used in Chapter 21, Article 14 NMSA 1978, "board" means either the local school board or the combined local school boards acting as a single board of the school district or the board of the branch community college elected pursuant to Section 21-14-2.1 NMSA 1978.

B. The duties of the board are to:

(1) enter into written agreements with the board of regents of the parent institution, subject thereafter to biennial review by all parties concerned and to the review and commentary of the commission on higher education;

(2) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the branch community college;

(3) approve an annual budget for the branch community college for recommendation to the board of regents of the parent institution;

(4) certify to the board of county commissioners the tax levy; and

(5) conduct the election for tax levies for the branch community college.

C. The board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the higher education institution to have full authority and responsibility in relation to all academic matters;

(2) the higher education institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program offered;

(4) the cooperative use of physical facilities and teaching staff;

(5) consideration of applications of local qualified people before employing teachers of the local school system; and

(6) the detailed agreement of financing and financial control of the branch community college.

D. The agreement shall be binding upon both the board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice. However, if the branch community college has outstanding general obligation or revenue bonds, neither the board nor the board of regents may terminate the agreement until the outstanding bonds are retired, except as provided by Section 21-13-24.1 NMSA 1978. This provision shall apply to all agreements in existence between the branch community college and the board of regents of the parent institution.

E. All taxes levied to pay for principal and interest on bonds of the branch community college shall be in addition to the taxes levied for operating, maintaining and providing facilities for the branch community college pursuant to the College District Tax Act.

F. For the purpose of relating branch community colleges to existing laws, branch community college districts or branch community colleges shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections

2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the state board of education under Article 12, Section 6 of the constitution of New Mexico; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned.

G. All elections held pursuant to the branch community college laws shall be as follows:

(1) the board calling the election shall give notice of the election in a newspaper of general circulation in the branch community college district at least once a week for three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election;

(2) the election shall be conducted and canvassed in the same manner as municipal school district elections unless otherwise provided in the branch community college laws; and

(3) any person or corporation may institute in the district court of any county in which the branch community college district affected lies an action or suit to contest the validity of any proceedings held under the

branch community college laws, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns by the board.

H. The tax rolls of the school districts comprising the branch community college district shall be adopted as the tax rolls of the branch community college district. "

Section 7. A new section of Chapter 21, Article 14 NMSA 1978 is enacted to read:

"LIMITATIONS ON BRANCH COMMUNITY COLLEGES. -- There shall be no new branch community college or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature. "

Section 8. Section 21-14A-5.1 NMSA 1978 (being Laws 1993, Chapter 344, Section 1) is amended to read:

"21-14A-5.1. TITLE TO PROPERTY ACQUIRED. -- All property acquired using the proceeds of a bond issue and all property acquired by gift, devolution or bequest shall be taken in the name of the local school board in the district in which the property is situate. All property held by the local school board pursuant to this section shall be used solely for the purpose of carrying out the provisions of the Off-Campus Instruction Act until such time as the off-campus

instruction program ceases to exist. At such time, the property so held by the local school board may be used for other purposes within the scope of authority of the local school board. No real property may be acquired pursuant to this section after July 1, 1998. "

Section 9. A new section of the Off-Campus Instruction Act is enacted to read:

"PROPERTY OWNERSHIP PROHIBITED. --An off-campus board may not own, accept as a gift or purchase land, buildings or other form of real property. "

Section 10. Section 21-16-16 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 12, Section 1) is amended to read:

"21-16-16. ALTERNATE PROCEDURES PERMITTED. -- In addition to the election procedures provided in Chapter 21, Article 16 NMSA 1978 for an election for the approval or disapproval of a tax levy of not to exceed five mills for current operations and retirement of bonds of a technical and vocational institute, the election procedures set out in the Technical and Vocational Institute Act may be used for those purposes. "

Section 11. Section 21-16-17 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 12, Section 2) is amended to read:

"21-16-17. IDENTIFICATION OF ELECTORATE. -- In any election relating to the approval or disapproval of a tax levy for the current operations and retirement of bonds of a

technical and vocational institute, the persons qualified to vote are those qualified electors residing within an affected school district. "

Section 12. A new section of the Technical and Vocational Institute Act is enacted to read:

"LIMITATIONS ON TECHNICAL AND VOCATIONAL INSTITUTES. --
There shall be no new technical and vocational institute branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature. "

Section 13. Section 21-17-3 NMSA 1978 (being Laws 1967, Chapter 177, Section 3) is amended to read:

"21-17-3. SUBMISSION OF PLAN FOR ESTABLISHMENT OF AREA VOCATIONAL HIGH SCHOOLS. --

A. The local school board of a school district may develop and present a plan to the state board for the establishment and operation of an area vocational high school.

B. The plan may include cooperative arrangements with junior colleges, branch community colleges, state educational institutions and other school districts.

C. The plan shall be prepared and presented to the state board on forms developed and provided by the state board and shall include information required by the state plan for vocational education. "

Section 14. Section 21-17-4 NMSA 1978 (being Laws 1967, Chapter 177, Section 4, as amended) is amended to read:

"21-17-4. DESIGNATION AS AN AREA VOCATIONAL SCHOOL BY THE STATE BOARD. --

A. Upon receipt and examination of the plan and supporting evidence, the state board shall conduct hearings, investigate records and procure such other information relating to vocational training as it deems necessary and appropriate.

B. If the state board finds that the plan provides an adequate, broad vocational and technical educational program, serves sufficient students for an economical operation, provides for adequate financing and sensibly relates to a statewide pattern for development of vocational and technical education, the state board may approve the plan.

C. After approval by the state board of the plan, the area vocational high school shall be officially designated by the state board as an area vocational school, shall be operated in accordance with provisions in the state plan for vocational education and shall meet all other requirements of an accredited school.

D. At the first area vocational school board election, members of the board elected to positions 1, 3 and

5 shall be elected for terms ending February 28, 1989 and members elected to positions 2 and 4 shall be elected for terms ending February 28, 1991. Thereafter, each board member shall be elected for a term of four years. The elections shall be conducted pursuant to the provisions of the Election Code and shall be held in the same manner and at the same time as regular school district elections on the first Tuesday in February of each odd-numbered year, beginning with the election to be held in February of 1987.

E. A vacancy occurring on the board shall be filled in the same manner as provided for school board vacancies in Section 22-5-9 NMSA 1978.

F. A member of the board may be recalled pursuant to the provisions of the Local School Board Member Recall Act, except that a recall election may be held only at the same time as a regular school district election."

Section 15. A new section of Chapter 21, Article 17 NMSA 1978 is enacted to read:

"LIMITATIONS ON AREA VOCATIONAL CAMPUS. -- There shall be no new area vocational campus, branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature."

Section 16. REPEAL. -- Sections 21-13-3 through 21-13-7, 21-14-3, 21-16-3, 21-16-4 and 21-16-19 NMSA 1978 (being Laws 1963, Chapter 17, Section 3, Laws 1964 (1st S. S.), Chapter

16, Sections 2 through 5, Laws 1972, Chapter 36, Section 3, Laws 1963, Chapter 108, Sections 3 and 4 and Laws 1964 (1st S.S.), Chapter 12, Section 4, as amended) are repealed.

Section 17. **EMERGENCY.** --It is necessary for the public peace, health and safety that this act take effect immediately. _____

SB 51
Page 14