

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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State Capitol North, 325 Don Gaspar, Suite 200
Santa Fe, New Mexico 87501
Phone: (505) 986-4591 Fax: (505) 986-4338
<http://lesc.nmlegis.gov>

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June 27, 2011

MEMORANDUM

TO: Legislative Education Study Committee

FR: LESC Staff

RE: UPDATES: HIGHER EDUCATION

a. Higher Education Funding Formula Task Force: Preliminary Report

Item 11, tab *a*, in the committee's notebooks contains three sections of current state statute relevant to the New Mexico public higher education funding formula:

- **Section 21.2-5.1. *Funding formula.***, which specifically addresses development of the funding formula, including among other provisions, "development and enhancement of programs that meet targeted post-secondary educational needs and the related needs of public schools";
- **Section 21-2-6. *Statewide planning; participating agencies and persons.***, which delineates the requirements of the department in carrying out its planning activities for postsecondary education, including a requirement for involvement of public school representatives in postsecondary planning; and
- **Section 21-2-7. *Annual Report.***, which requires the department to submit an annual report to the Governor and the Legislature prior to November 15 of each year.

For FY 12, the *General Appropriation Act of 2011* includes language requiring the Higher Education Department (HED) to recommend revisions to the higher education funding formula authorized by Section 21-2-5.1 NMSA 1978, no later than October 15, 2011.

Background

Provisions in Current Law Relating to the Higher Education Funding Formula: Unlike the public school funding formula, or state equalization guarantee, the mechanics of the higher education funding formula are not codified in law. Instead, current statute requires HED to:

- “develop a funding formula that will provide funding for each institution of higher education to accomplish its mission as determined by a statewide plan”; and
- “be concerned with the adequate financing of these [higher education] institutions and with the equitable distribution of available funds among them.”

The law provides for the department to include factors in the formula, which when implemented will achieve a number of objectives, first among them “[improving] the quality of programs central to each institution’s mission.” Again, however, the actual factors are not specified in state statute or rule.

In testimony to the Legislative Education Study Committee (LESC) during the 2010 interim, HED staff stated that the original higher education funding formula was developed in the mid-1970s in order to provide an objective means for determining the funding needs of institutions. In 2002, a Blue Ribbon Task Force was created to revise the mechanics of the formula, which resulted in the current higher education funding formula. More recently, in 2007, statute was amended to accommodate the dual credit program: “The higher education department shall revise procedures in the higher education funding formula to address enrollments in dual credit courses and to encourage institutions to waive tuition for high school students taking the courses.”

The Current Structure of the Formula: Each year, the Legislature appropriates funds to each public institution of higher education for “instruction and general purposes,” also known as I&G. Calculated through the higher education funding formula, I&G dollars are based on data from two years prior to the year in which the appropriation is made.

During the 2010 interim, HED staff outlined the nine main factors of the higher education funding formula that affect the annual I&G appropriation to each institution:

- instruction and instructional support;
- student services;
- physical plant operations and maintenance/utilities;
- land and permanent fund revenue credit;
- mill levy revenue credit;
- tuition revenue credit;
- 3.0 percent scholarship adjustment;
- building renewal and replacement adjustment; and
- equipment renewal and replacement adjustment.

In addition to these factors, appropriations for I&G may be adjusted annually for inflation (including compensation) or other adjustments, such as appropriation reductions to meet state solvency efforts.

Instruction and Instructional Support: According to HED staff in the 2010 interim, the instruction and instructional support component of the formula also has nine factors. In addition, student credit hours are categorized into three tiers, based on the estimated, average cost of delivering instruction. Within each tier, there are three instructional levels – lower level, upper level, and graduate. Each tier and instructional level has an assigned funding per credit hour, and institutions receive instruction and instructional support funding based on the total number of student credit hours in each tier and level.

The table below shows the funding per credit hour for each tier and instructional level in FY 11:

	Lower Level	Upper Level	Graduate
Tier 1	\$133.34	\$293.44	\$635.09
Tier 2	\$199.20	\$459.40	\$873.81
Tier 3	\$321.16	\$527.84	\$1,396.77

Source: HED, 2010 Interim

It should be noted that all teacher preparation coursework is funded in Tier 1.

How Changes are Made to the Formula: As reported to the LESC in the 2010 interim, in the event that changes to the higher education funding formula are deemed necessary, the Higher Education Funding Task Force¹ makes recommendations for changes in the formula to the Secretary of Higher Education. HED then includes those recommendations in the annual agency funding recommendations to the Department of Finance and Administration (DFA) and the Legislative Finance Committee (LFC). If the changes are approved by DFA and LFC, the final I&G appropriations to institutions in the *General Appropriation Act* will reflect the changes.

Other Funding Sources in Law: Several funds in law may provide additional funding for specific programs or institutional needs. In particular, dollars in the Higher Education Program Development Enhancement Fund² may be awarded to institutions of higher education to “[expand] instructional programs to meet critical statewide work force and professional training needs.” From 2006 to 2008, the legislature appropriated a total of \$10.5 million to the fund “to address the state’s nursing shortage.”

Although past *General Appropriations Acts* have designated the appropriations to the Higher Education Program Development Enhancement Fund for nursing programs, statute requires HED, in each fiscal year that there is funding available, to define or reaffirm no more than four critical issues to be addressed through awards from the fund. HED is also required to establish criteria and procedures for making awards from the fund based on evaluation of competitive proposals submitted by postsecondary educational institutions.

¹ During the 2010 interim, HED staff reported that the Higher Education Funding Task Force includes representatives from public institutions of higher education, HED, the Council of University Presidents, the New Mexico Association of Independent Community Colleges, the New Mexico Association of Community Colleges, the Office of the Governor, the Legislative Finance Committee, and the LESC.

² The purpose of this fund, created in 2003, is “to enhance the contribution of post-secondary educational institutions to the resolution of critical state issues and the advancement of the welfare of state citizens.”

This fund may be of particular interest to the LESC because, since the 2008 interim, the LESC has received reports indicating that New Mexico may need approximately 99 additional mathematics teachers to meet increased mathematics graduation requirements in place for the students who entered their freshman year in school year 2009-2010.

b. FY 12 Higher Education Department Operating Budget and Organizational Plan

Item 11, tab *b*, of the committee notebooks presents the FY 12 and FY 11 organization charts for HED.

For FY 12, the Legislature appropriated approximately \$36.3 million for HED (a decrease of approximately \$4.3 million from FY 11), including a total of 58 full-time equivalent staff (FTEs), an increase of seven FTEs from FY 11. For FY 12, 33.5 FTEs are permanent (an increase of one from FY 11) and 24.5 FTEs are temporary (an increase of six from FY 11).

Notable changes in the FY 12 organization chart, as compared to the one from FY 11, include:

- the elimination of:
 - the term “P-20” from the P-20 (pre-kindergarten through postsecondary) policy and programs director position;
 - three positions that coordinated and supported the Innovative Digital Education and Learning-New Mexico (IDEAL-NM) program;
 - the communications director;
 - the chief information officer;
 - the executive assistant to the deputy cabinet secretary;
 - the work force education director; and
 - the American Indian education director; and

- the addition of:
 - a planning, assessment and evaluation director reporting to the cabinet secretary and overseeing four offices;
 - an executive director for the Education Trust Board reporting to the cabinet secretary; and
 - several new staff members, which the department notes are in accordance with the positions authorized by the Legislature in the *General Appropriation Act of 2011*:
 - a management analyst who will report to the cabinet secretary;
 - two education administrators who will report to the policy and programs director;
 - a financial coordinator who will report to the institutional finance and capital projects director; and
 - a financial coordinator who will report to the administrative services director.

Several existing offices and positions have also moved within the department. For example:

- the information technology office now reports to the deputy cabinet secretary rather than the chief information officer, which position was eliminated;

- the government affairs coordinator is now also the state approving agency director reporting to the deputy cabinet secretary rather than the cabinet secretary;
- the adult basic education director now reports to the deputy cabinet secretary rather than the cabinet secretary; and
- the GEAR UP director now reports to the deputy cabinet secretary rather than the former P-20 policy and programs director.

c. American Recovery and Reinvestment Act of 2009 (ARRA) Government Service Fund Allocation to Support Cyber Academy/Virtual School Program

Item 11, tab *c*, in the committee’s notebooks is a copy of the provisions in current law for the *Statewide Cyber Academy Act*.

In a June 13, 2011 report, the staff of the LFC reported that the Governor allocated \$500,000 to HED for data hosting and software maintenance for a New Mexico K-12 and higher education online learning system, and \$50,000 to the Public Education Department (PED) to provide funding to support the “Cyber Academy/Virtual School Program.”

A subsequent LFC report, dated June 22, 2011, stated that the Governor made a \$50,000 allocation to PED from discretionary Government Service Funds. PED indicates that the allocation will be used to support limited IDEAL-NM staff positions until those positions are filled under departmental reorganization anticipated by the first week of July.

Background

In 2007, LESC-endorsed legislation was enacted to establish a statewide cyber academy to provide distance learning courses for students in grades 6 through 12. That same year, the Legislature appropriated funds to implement IDEAL-NM. Both of these initiatives represent steps toward providing New Mexicans with access to online learning resources. Cooperatively administered by PED and HED, the initiatives aim to:

- provide eLearning services to public schools, higher education institutions, and state agencies;
- reduce geographic and other barriers to educational opportunity statewide; and
- increase the computer literacy skills that online learners need to participate in a global economy.

Appropriation History: Since 2007, the Legislature has appropriated a total of approximately \$11.6 million for IDEAL-NM to fund the implementation and operation of the program, including:

- \$7.9 million to HED; and
- approximately \$3.7 million to PED.

IDEAL-NM Structure: The primary goal of IDEAL-NM is to establish a common infrastructure for online learning for the project’s three main components: P-12 education, higher education, and state agencies. The infrastructure includes:

- a statewide eLearning services center: This center is the physical location for administrative staff for IDEAL-NM and the cyber academy, including the Executive Director, Chief Academic Officer, Course Development Coordinator, Chief Technology Officer, Help Desk Support Staff, Technical Support Specialists, and Special Projects/Management Staff. It is from this center that IDEAL-NM staff provide support for users of the statewide learning management and web-conferencing systems, including:
 - administrative and technical help desk services for eLearning students, instructors, facilitators;
 - academic services for students;
 - course development;
 - teacher training and professional development;
 - scheduling and management of online courses; and
 - continuing eLearning planning; and
- a statewide eLearning system: This system supports all aspects of online learning, including a Learning Management System (LMS) that manages learning activities through the system's ability to catalog, register, deliver, and track learners and learning, accessible via a web portal.

IDEAL-NM staff cites two advantages to the statewide cyber academy's developing, housing, and maintaining its own courses:

- the same course can be used in multiple semesters and school years without having to pay licensing fees charged by online course vendors. According to PED staff during the 2010 interim, once a course is developed, it will require only periodic revision to ensure that the course content is updated and that other online features remain accurate and functional, at a cost of approximately \$1,200 every three years; and
- the cyber academy will have greater control over course content to ensure that online courses are aligned with the state's academic performance standards, as required by state statute.

d. Higher Education Building Moratorium

Item 11, tab *d*, in the committee's notebooks is a copy of a letter dated March 12, 2011, from the New Mexico Council of University Presidents, the New Mexico Association of Community Colleges, and New Mexico Independent Community Colleges (NMICC), agreeing to a voluntary two-year moratorium on the establishment of new learning sites, learning centers, branches, or campuses, effective April 1, 2011. The letter states four exceptions to the moratorium:

- facility renovation that does not add new state-funded square footage;
- research or similar facilities that receive no state funds for construction or building renewal and replacement;
- facilities requiring no state appropriation or formula funding; and
- projects that received final approval by HED and that were funded prior to January 1, 2011.

The letter also states that exceptions to the terms of the voluntary moratorium may be approved at the discretion of the Secretary of Higher Education on a case-by-case basis.

LESC staff has received communications from:

- New Mexico State University, indicating that the institution has identified three construction projects that fall outside the scope of the moratorium and that will move forward:
 - New Mexico Department of Agriculture addition and remodel (\$2.4 million);
 - Doña Ana Community College East Mesa Campus Phases 6 and 7 (\$17.1 million); and
 - Doña Ana Community College Hatch location (\$2.25 million); and
- NMICC, indicating that Santa Fe Community College is pursuing the purchase of land from the state for a proposed higher education center that will ultimately require approval by the State Board of Finance.

Background

In the 2010 session, the Legislature passed and the Governor signed HB 237, *Government Restructuring Task Force* (Laws 2010, Chapter 101), to establish a task force of legislators and public members charged with studying the current resources, structures and legal foundations of state government and previous government restructuring; and to make a report of its findings and recommendations by December 1, 2010.

Among the government functions that the task force examined was the state's public higher education system and funding formula, and among its recommendations was "a moratorium on any new campuses, or sites, or the creation of any more community colleges" while the task force's successor, the Governor, HED, the boards of regents and governing boards cooperate "to effectuate a substantial contraction in off-main-campus offerings, in particular duplicative offerings in the same geographic area or offerings outside an institution's reasonable geographic area."

In 2011, the Legislature considered SB 173, *Post-secondary School Building Moratorium*, an LESL-endorsed measure to establish a six-year moratorium on new postsecondary facilities construction. However, the bill did not pass. During the session, the Chairman of the Senate Finance Committee indicated that the Secretary of Higher Education had received a letter from the three associations of public postsecondary institutions offering to implement the voluntary two-year moratorium.

e. Statewide Student Tuition Increases/Impact on Lottery Tuition Fund

Item 11, tab *e*, in the committee's notebooks includes three documents:

1. *FY 11 to FY 12 Tuition and Fees Comparison*, which shows increases in tuition at New Mexico's colleges and universities, both in whole dollar amounts and as percentage increases. The table includes values for individual institutions; averages for various

categories of schools, such as two-year and four-year institutions; and a statewide average;

2. *Lottery Sustainability Models*, which presents graphs illustrating the effects of tuition increases on the fund's expenditures, revenues, and balance; and
3. *Legislative Lottery Scholarship Sustainability – NMHED Model 9/09*, which is a table expressing the effects of 5.0, 7.0, and 9.0 percent tuition increases on the fund in dollar amounts, including projections through FY 12.

Background

At its June 2010 meeting, the committee heard an LESC staff report on the New Mexico Legislative Scholarship Program, including the Lottery Scholarship Fund, which focused in particular on the impact of rising tuition costs. Specifically, the report examined the fund's sustainability in the event of 5.0, 7.0, and 9.0 percent tuition increases.

As shown in Documents 1 and 2, reported projections indicate that the fund balance would fall sharply with a tuition increase of only 5.0 percent, with greater increases hastening the insolvency of the fund. Assuming an increase of 7.0 percent, the fund balance was expected to reach zero in FY 14, as illustrated in Document 2. As Document 3 clarifies, however, tuition increases in New Mexico's colleges and universities for FY 12 average between 6.8 and 11.2 percent, indicating that the fund may reach insolvency prior to FY 14 if all other factors remain unchanged.

According to the Chief Executive Officer (CEO) of the New Mexico Lottery, decreasing lottery revenues are also a point of concern. The CEO has stated that, when the Lottery Authority's board met to approve the FY 12 budget, it also approved a revised budget for FY 11, taking into account unanticipated decreases in lottery sales. The original FY 11 budget was predicated upon an anticipated \$43.0 million in returns; and the revised FY 11 budget assumes approximately \$40.0 million, primarily because revenue was down 5.0 percent from the previous year, with an additional decrease in sales of "instant" lottery products totaling \$2.5 million.

According to the CEO, the FY 12 budget is approximately \$41.0 million. Based on the information in Document 2, whether revenues for FY 12 and succeeding years decrease or remain stable around current levels, projections indicate that the fund is still likely to become insolvent.

f. P-20 Educational Data System and Data System Council

Item 11, tab *f*, of the committee's notebooks is a copy of legislation endorsed by the LESC and enacted in 2010 to codify the requirements for a pre-kindergarten through postsecondary (P-20) education accountability data system in order to:

- collect, integrate, and report longitudinal student-level and educator data required to implement federal or state education performance accountability measures;
- conduct research and evaluation of federal, state, and local education programs; and
- audit program compliance with federal and state requirements.

The legislation defines the “data system partners” as the Public Education Department (PED) and the Higher Education Department (HED) and charges the data system partners with convening the Data System Council. The council is charged with overseeing the development and implementation of the data system. Provisions in current law define the council as representatives from:

- PED;
- HED;
- the Children, Youth and Families Department;
- the Department of Workforce Solutions;
- the Department of Economic Development;
- the Department of Information Technology;
- the Human Services Department;
- the Department of Health;
- the Office of Education Accountability;
- the Office of the Governor;
- the Public School Facilities Authority;
- public postsecondary educational institutions;
- public school districts;
- charter schools;
- the LESC; and
- the LFC.

Background

During the 2010 interim, the LESC received a report on the implementation of the P-20 educational data system, including the first meeting of the Data System Council, held September 22, 2010. Among its activities at that meeting, the council:

- reviewed the requirements of the legislation;
- received updates on the current capabilities of existing data systems in linking P-20 data; and
- approved a governance and management plan.

At the time of publication of this update, LESC staff has not received a response to a request to PED regarding plans of the data system partners to convene the next meeting of the Data System Council.

21-2-5.1. Funding formula.

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

B. The commission on higher education 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;
- (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.

History: 1978 Comp., § 21-2-5.1, enacted by Laws 1988, ch. 164, § 1; 1995, ch. 224, § 19; 2003, ch. 162, § 1.

The 1995 amendment, effective June 16, 1995, substituted "statewide plan" for "statewide planning effort" at the end of Subsection A, and, in Subsection B, rewrote Paragraph (2), inserted "when such compensation adjustments are supported by detailed analyses of faculty workloads and educational outcomes assessments" in Paragraph (4), added Paragraph (10), redesignated former Paragraphs (10) and (11) as Paragraphs (11) and (12), and made stylistic changes.

The 2003 amendment, effective June 20, 2003, added Paragraph B(13).

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 and invite the active participation of:

- (1) 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) the public education commission;
- (3) the public education department;
- (4) representatives of public and private elementary and secondary schools;
- (5) the secretary of labor;
- (6) the tourism department;
- (7) the apprenticeship council;
- (8) the economic development department;
- (9) 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 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.

History: 1953 Comp., § 73-44-6, enacted by Laws 1978, ch. 54, § 1; 1986, ch. 24, § 9; 1991, ch. 21, § 33; 2007, ch. 46, § 8.

Repeals and reenactments. — Laws 1978, ch. 54, § 1, repealed former 73-44-6, 1953 Comp. (former 21-2-6 NMSA 1978), relating to participating agencies and persons in statewide planning, and

enacted a new 73-44-6, 1953 Comp.

The 1991 amendment, effective March 27, 1991, in Subsection A, substituted "labor" for "employment security" in Paragraph (5), substituted "tourism department" for "labor commissioner" in Paragraph (6), and deleted "and tourism" following "development" in Paragraph (8).

The 2007 amendment, effective June 15, 2007, amended Paragraphs (2) and (3) of Subsection A and Subsection B to change the names of the departments and made other non-substantive language changes.

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 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 Section 5, Items I, J and K [21-2-5 I, J and K NMSA 1978] of the Post-Secondary Educational Planning Act. 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 Section 2A(2) [21-2-2A(2) NMSA 1978] and to representatives of all other interests enumerated in Section 6 and shall then hold a hearing at which all such institutions, programs and interests may comment upon the draft report.

History: 1953 Comp., § 73-44-7, enacted by Laws 1973, ch. 233, § 7.

Compiler's notes. — Section 6 of the Post-Secondary Educational Planning Act, referred to near the middle of the last sentence, was compiled as 21-2-6 NMSA 1978, and was repealed by Laws 1978, ch. 54, § 1, which enacted a new 21-2-6 NMSA 1978 relating to the same subject matter and containing only minor differences from the former 21-2-6 NMSA 1978.

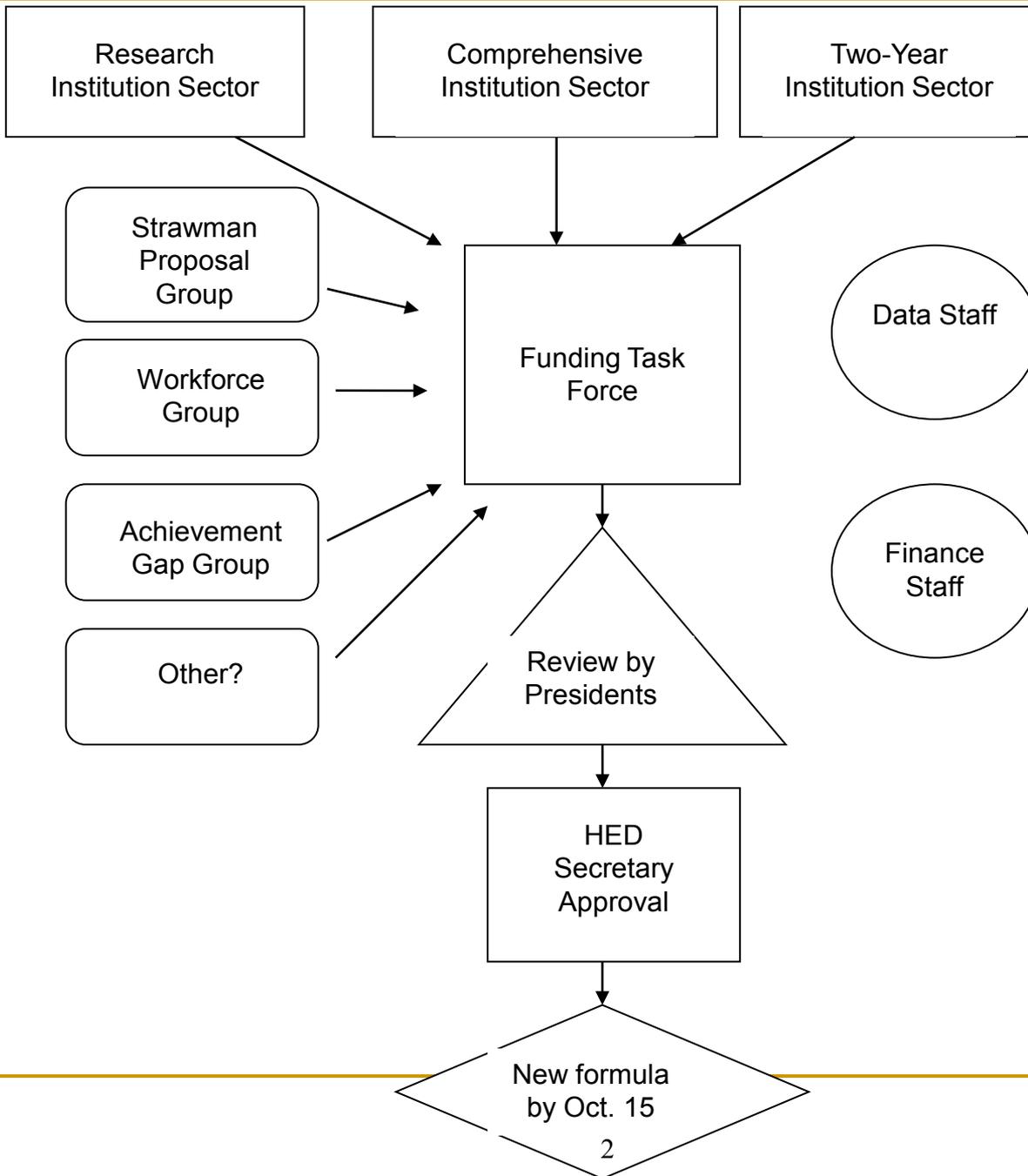
Revised Higher Education Funding Formula

Legislative Education Study Committee, June 29, 2011

Curtis Porter
Chair, Formula Task Force

Process flow for development of new funding formula





Participants in the Process

Strawman Proposal Group

- Recommended by Funding Task Force 5-11-11
- Membership: LFC staff, DFA staff, HED staff, Council of University Presidents staff, representatives of research and comprehensive 4-year colleges, NM Independent Community Colleges staff, representative of independent 2-year colleges, NM Association of Community Colleges staff, representative of branch campuses
- Task: Developed strawman proposal for general structure of new funding formula. Approved by Funding Task Force June 8, 2011.

System Sectors

- SECTORS

- Research Universities
- Comprehensive Universities
- Independent and Branch Two-Year Colleges

- TASKS

- Recommend outcome measures for each system by June 24, 2011 Funding Task Force Meeting
- Work with HED/finance staff to develop cost factors; outcome data

Other Concentration Groups

■ Workforce Group

- Membership: Representatives of private industry, national laboratories, Economic Development Department; Department of Workforce Solutions; economic development-related non-profit organizations; Funding Task Force, NMSU, CNM
- Tasks: Focus on workforce development, projections and strategies to achieve workforce targets.

■ Achievement Gap Group

- HED Achievement Gap Conference May 26, 2011
- Tasks: Identify strategies to improve preparedness for higher education esp. in science, technology, engineering and math.

Staff

- Data Staff include HED, UNM, CNM, and ENMU institutional researchers
- Fiscal Staff include HED, LFC, DFA and other finance staff from postsecondary institutions
- Tasks: Provide data and financial information to system sectors and concentration groups.

Timeline

- **May** – Identified best practices from other states; conducted Achievement Gap Conference
- **June** – Developed strawman recommendation; sectors developing initial proposals for outcome measures; HED developing initial proposals for workforce and achievement gap measures; measures reviewed by FTF.
- **July** – Data staff reports on outcome data related to preliminary outcomes identified by system sectors. Finance staff reports on approaches to assign dollar values to identified outcomes. Additional subcommittees develop methodologies for costing other input or output factors (i.e. utilities group)
- **August** – Develop preliminary funding formulas
- **September** - Refinement of formulas; presentation to CUP, NMACC and NMICC presidents for endorsement and/or revision
- **October** – Finalize model and present to LFC and DFA

General Structure of New Higher Education Funding Formula –

- * Model T version for FY13
- * Enhanced in FY14 and beyond



Three formulas

- To reflect mission differentiation, separate formulas would be developed for:
 - Four-year research universities
 - Four-year comprehensive universities
 - Two-year colleges
- Formulas might be merged later into one formula if outcome measures are similar.
- This is consistent with treatment of mission differentiation in other states such as Ohio, Washington, Texas and Tennessee.

Base-Plus formula

- The new formulas would be run as a base-plus approach.
- This is consistent with past practice that each year's budget recommendation moved from the base of the prior year.
- The base would be FY12 appropriations, with consideration for adjusting utilities to actuals as well as possible approaches to address the structure of the FY12 budget reductions.
- It is intended that the legislature would use the formulas to calculate total workload and sand evenly if not enough funds available.

Continue to run old formula?

- HED would not continue to run the old formula; however, the new formula will contain some elements of the old formula.

General shape of the new formula

ELEMENTS OF OLD FORMULA		ELEMENTS OF NEW FORMULA
Input Funding		Input Funding
Student credit hour enrollment		
Student Services		Student Services (possibly rolled into student credit hour completion calculation)
Physical Plant Operations and Maintenance on flat rate per square foot		Physical Plant Operations and Maintenance on flat rate per square foot
Utilities calculated on per square foot basis		Utilities funded; approach TBD
Outcome Funding		Outcome Funding
		Student credit hour completion based on marginal cost
		Other outcomes identified by sectors
Revenue Credits		Revenue Credits
Land and Permanent Fund		Percentage allocation of total costs between state and institution-generated revenues. No calculation of waivers or credits.
Mil Levy		
Tuition - adjusted for waivers, dual credit		
Other Formula Expenditures/Transfers		Other Formula Expenditures
3% scholarship		ER&R, BR&R, 3% scholarship carried forward in base appropriation. No longer calculated separately in formula.
BR&R		
ER&R		
Legislative Adjustments - Carried in and added to base		Legislative Adjustments - Carried in and added to base
Compensation		Compensation
Insurance		Insurance
Library		Library
Other		Other

Funding Inputs in New Formula

- Student services would be included but may be merged into student credit hours.
- Physical plant operations and maintenance funded on per square foot basis as is current practice.
- Utilities would be funded; approach still under consideration.
- Funding inputs in formula is consistent with practices in Tennessee and Ohio.

Funding Outputs in New Formula

- Student credit hour matrix would be included but would reflect course completion rather than enrollment and would use marginal costs
- Other outcomes will be incorporated as identified by each sector, HED and Funding Task Force.

Revenue credits

- Total costs would be allocated in fixed percentages for each sector between state general fund support and institution-generated revenues
- Tuition, mil levy and permanent fund amounts would not be calculated separately in the formula
- This is consistent with Tennessee, where the formula provides for university-generated revenues to cover 45% of expenditures; college-generated revenues to cover 33%. Actual percentages used in NM to be determined yet.

Other formula expenditures

- ER&R, BR&R, 3% scholarship would be carried forward in the base appropriation
- These items would not be calculated and tracked in the new formula.

Legislative adjustments

As in the past, special legislative adjustments would be incorporated into the base such as:

- ❑ Compensation
- ❑ Retirement
- ❑ Insurance/risk adjustments
- ❑ Extra funding for library acquisitions
- ❑ Other

Agency Name: NM Higher Education Department

Program Name: _____

Business Unit: 95000

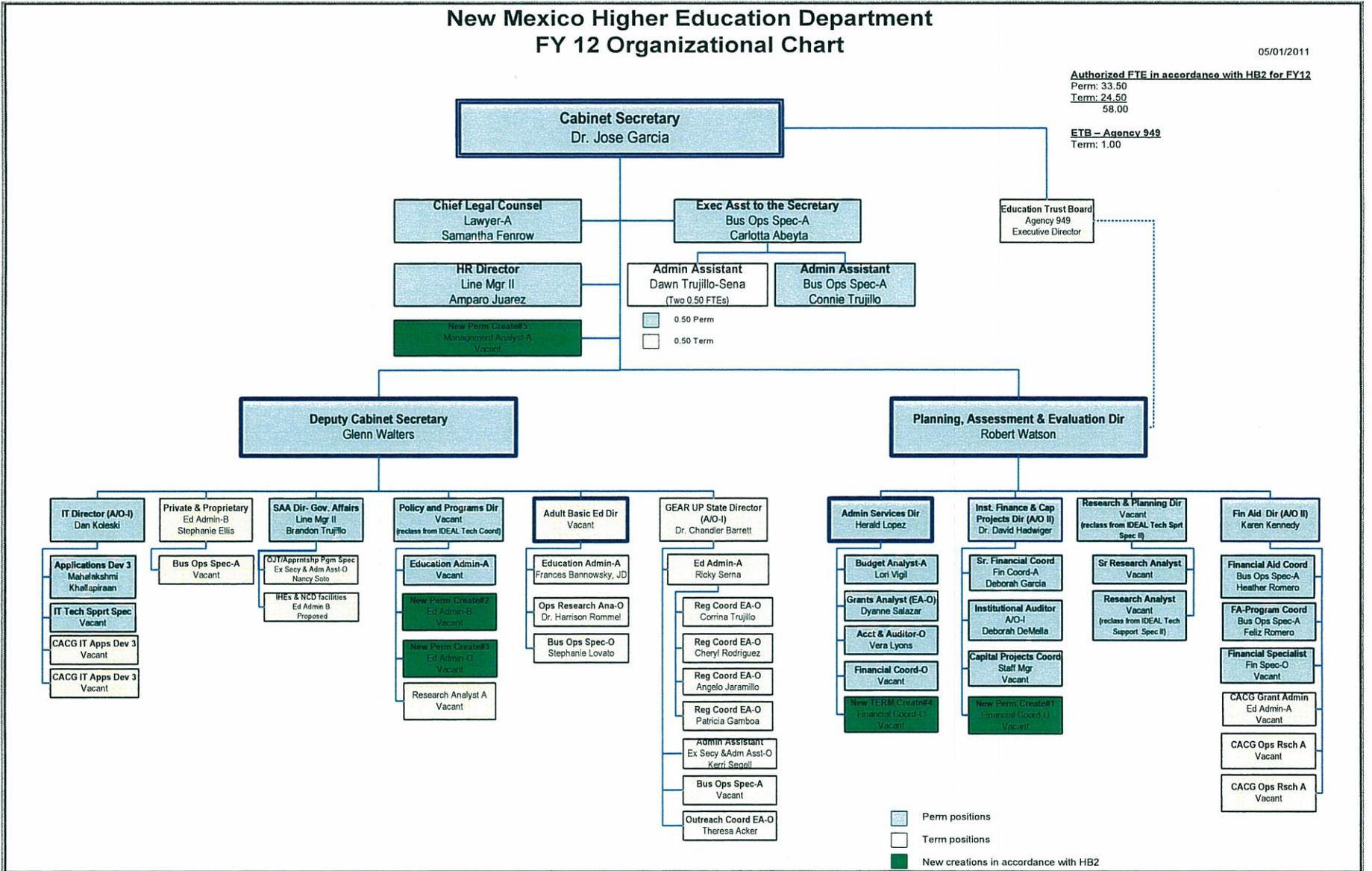
Program Code: _____

New Mexico Higher Education Department FY 12 Organizational Chart

05/01/2011

Authorized FTE in accordance with HB2 for FY12
Perm: 33.50
Term: 24.50
58.00

ETB - Agency 949
Term: 1.00



Agency Name: NM Higher Education Department

Program Name: _____

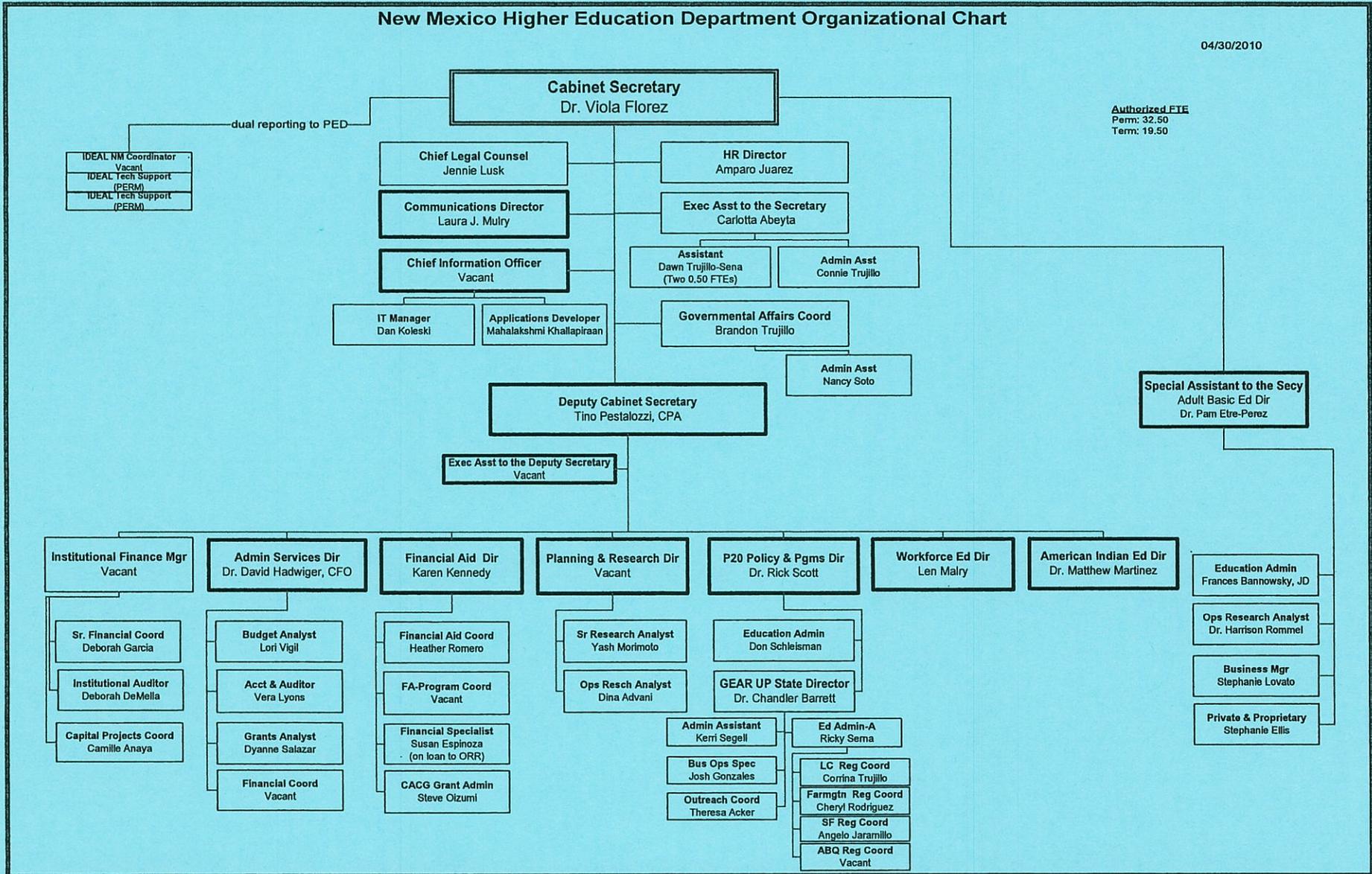
Business Unit: 95000

Program Code: P505

New Mexico Higher Education Department Organizational Chart

04/30/2010

Authorized FTE
Perm: 32.50
Term: 19.50



Check Box if this form is a revision

Revision no: _____

Revision Date: _____

Page _____

ARTICLE 30

Statewide Cyber Academy Act

Section

22-30-1	Short title.
22-30-2	Definitions.
22-30-3	Statewide cyber academy created.
22-30-4	Department rules.
22-30-5	Statewide cyber academy; duties.
22-30-6	Distance learning students.
22-30-7	Distance learning and computer-based courses.
22-30-8	Evaluation of regional education cooperative distance learning networks.

22-30-1. Short title.

Sections 1 through 7 [and 11] of this act may be cited as the "Statewide Cyber Academy Act".

History: Laws 2007, ch. 292, § 1 and Laws 2007, ch. 293, § 1.

Bracketed material. — The bracketed material was added by the compiler to reflect a recompilation into the Statewide Cyber Academy Act. Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11, recompile former 22-13-27 NMSA 1978 into the Statewide Cyber Academy Act as 22-30-7 NMSA 1978.

Duplicate laws. — Laws 2007, ch. 292, § 1 and Laws 2007, ch. 293, § 1 enacted identical new sections, effective June 15, 2007.

22-30-2. Definitions.

As used in the Statewide Cyber Academy Act:

- A. "course provider" means a person that supplies educational course content for distance learning courses;
- B. "distance learning course" means an educational course that is taught where the student and primary instructor are separated by time or space and linked by technology;
- C. "distance learning student" means a qualified student as defined in Section 22-8-2 NMSA 1978 who is enrolled in one or more distance learning courses for credit;
- D. "learning management system" means a software application that facilitates online instruction and interaction between teachers and distance learning students;
- E. "local distance learning site" means a school district or charter school that offers and grants credit for distance learning courses to distance learning students enrolled in the school district or charter school;
- F. "primary enrolling district" means the school district or charter school in which

the distance learning student is enrolled;

G. "regional host" means an educational institution, school district or other entity selected by the statewide cyber academy to coordinate the delivery of distance learning courses within a broad geographic region of the state;

H. "service center" means the single central facility where administrative and management functions of the statewide cyber academy are physically located in New Mexico; and

I. "statewide cyber academy" means the department's collaborative program that offers distance learning courses to all local distance learning sites.

History: Laws 2007, ch. 292, § 2 and Laws 2007, ch. 293, § 2.

Duplicate laws. — Laws 2007, ch. 292, § 2 and Laws 2007, ch. 293, § 2 enacted identical new sections, effective June 15, 2007.

22-30-3. Statewide cyber academy created.

The "statewide cyber academy" program is created in the department. The statewide cyber academy is a collaborative program among the department, the higher education department, telecommunications networks and representatives of other state agencies engaged in providing distance education. The statewide cyber academy shall provide distance learning courses for grades six through twelve and professional development for teachers, instructional support providers and school administrators.

History: Laws 2007, ch. 292, § 3 and Laws 2007, ch. 293, § 3.

Cross references. — For the public education department, see 9-24-4 NMSA 1978.

For the higher education department, see 9-25-1 NMSA 1978.

Duplicate laws. — Laws 2007, ch. 292, § 3 and Laws 2007, ch. 293, § 3 enacted identical new sections, effective June 15, 2007.

The Statewide Cyber Academy Act was enacted as part of the Public School Code, 22-1-1 NMSA 1978. The department referred to in the Statewide Cyber Academy Act means the public education department, 22-1-2 NMSA 1978.

22-30-4. Department rules.

The department shall promulgate rules to carry out the provisions of the Statewide Cyber Academy Act.

History: Laws 2007, ch. 292, § 4 and Laws 2007, ch. 293, § 4.

Effective dates. — Laws 2007, ch. 293, contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 15, 2007, 90 days after the adjournment of the legislature.

Compiler's notes. — Laws 2007, ch. 292, § 4 and Laws 2007, ch. 293, § 4 enacted identical new sections, effective June 15, 2007.

22-30-5. Statewide cyber academy; duties.

The statewide cyber academy shall:

A. establish a distance learning course delivery system that is efficient and cost-effective and that uses a statewide service center and regional hosts to provide approved distance learning courses;

B. select regional hosts based on pre-existing experience and capacity to facilitate the delivery of distance educational programs, including public post-secondary educational institutions, regional education cooperatives and school districts;

C. provide technical and program support to regional hosts and local distance learning sites;

D. ensure that all distance learning courses offered by course providers are taught by highly qualified teachers or members of the faculty of accredited post-secondary educational institutions and meet state academic content and performance standards;

E. provide for reasonable and equitable means to allocate the costs of distance learning courses among the statewide cyber academy, the course providers and the school districts whose students are enrolled in a distance learning course;

F. give first priority to the delivery of distance learning courses for credit to distance learning students who have the greatest need because of geographic location or circumstances in which a school district may have difficulty delivering essential course instruction due to financial restraints or lack of highly qualified teachers; provided that in fiscal year 2008 the statewide cyber academy shall include, among those distance learning students who are determined to have the greatest need, distance learning students served by school districts that are members of regional education cooperatives three, eight and nine;

G. ensure that the statewide cyber academy's learning management system is compatible with school district and department data collection, analysis and reporting systems;

H. ensure that all deficiencies in the infrastructure, hardware and software in the statewide cyber academy are corrected in accordance with educational technology adequacy standards pursuant to Section 22-15A-11 NMSA 1978;

I. comply with all rules governing privacy and confidentiality of student records for secure record storage;

J. offer distance learning courses to distance learning students;

K. offer professional development via distance learning, using a learning management system;

L. assist the council on technology in education in its development of the statewide plan required by Section 22-15A-7 NMSA 1978, including a statewide cyber academy plan that addresses short- and long-range goals;

M. define and coordinate the roles and responsibilities of the collaborating agencies to establish a distance learning governance and accountability framework; and

N. conduct an annual evaluation and provide an annual report to the department and the legislature that includes a detailed report of expenditures; a description of services provided, including the number and location of local distance learning sites, public schools and distance learning students served; the courses offered; the credits generated by local distance learning sites; and student and teacher accountability reporting data.

History: Laws 2007, ch. 292, § 5 and Laws 2007, ch. 293, § 5.

Compiler's notes. — Laws 2007, ch. 292, § 5 and Laws 2007, ch. 293, § 5 enacted identical new sections, effective June 15, 2007.

22-30-6. Distance learning students.

A. A student must be enrolled in a public school or a state-supported school and must have the permission of the student's local distance education learning site to enroll in a distance learning course. A distance learning student shall only be counted in the student's primary enrolling district for the purpose of determining the membership used to calculate a school district's state equalization guarantee. A student shall have only one primary enrolling district.

B. A home school student may participate in the statewide cyber academy by enrolling for one-half or more of the minimum course requirements approved by the department for public school students in the school district in which the student resides; or, if the student is enrolled for less than one-half of the minimum course requirements, the student may participate in the statewide cyber academy by paying not more than thirty-five percent of the current unit value per curricular unit.

C. A student enrolled in a nonpublic school may participate in the statewide cyber academy if the school in which the student is enrolled enters into a contract with the school district in which the nonpublic school is located.

D. A student who is detained in or committed to a juvenile detention facility or a facility for the long-term care and rehabilitation of delinquent children may participate in the statewide cyber academy if the facility in which the student is enrolled enters into a contract with the school district in which the facility is located.

History: Laws 2007, ch. 292, § 6 and Laws 2007, ch. 293, § 6.

Compiler's notes. — Laws 2007, ch. 292, § 6 and Laws 2007, ch. 293, § 6 enacted identical new sections, effective June 15, 2007.

22-30-7. Distance learning and computer-based courses.

Public schools that offer distance learning and computer-based courses of study shall provide accompanying electronic formats that are usable by a person 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.

History: Laws 2003, ch. 162, § 2; recompiled by Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11.

Recompilations. — Laws 2007, ch. 292, § 11 and Laws 2007, ch. 293, § 11, effective June 15, 2007, recompile former 22-13-27 NMSA 1978 into the Statewide Cyber Academy Act as 22-30-7 NMSA 1978.

22-30-8. Evaluation of regional education cooperative distance learning networks.

A network developed by regional education cooperatives three, eight and nine shall serve as a regional host in fiscal year 2008. The statewide cyber academy shall provide a preliminary report to the governor and the legislature by January 1, 2008 on the quality and cost-effectiveness of the provision of distance learning courses by the regional education cooperatives. At the end of fiscal year 2008, the statewide cyber academy shall prepare a final report on the quality and cost-effectiveness of services provided, including whether the services increased the rigor of school district and charter school curricula, and make recommendations for the expansion to other regional education cooperatives.

History: Laws 2007, ch. 292, § 7 and Laws 2007, ch. 293, § 7.

Duplicate laws. — Laws 2007, ch. 292, § 7 and Laws 2007, ch. 293, § 7 enacted identical new sections, effective June 15, 2007.

March 12, 2011

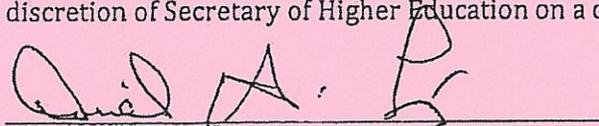
The New Mexico Council of University Presidents, New Mexico Association of Community Colleges, and New Mexico Independent Community College agree to impose a voluntary two-year moratorium on the establishment of new (meaning not yet approved by the New Mexico Higher Education Department) learning sites, learning centers, branches, or campuses. For the duration and aforementioned purpose of this moratorium, state-supported public higher education institutions agree there will be no construction of new facilities.

This voluntary moratorium shall become effective April, 1, 2011.

Exemptions include a:

- Facility renovation that does not add new, state funded square footage,
- Research or similar facility that receives no state funds for construction or building renewal and replacement, or
- Facility requiring no state appropriation or formula funding,
- Project that received final approval by the Higher Education Department and was funded prior to January 1, 2011.

Exceptions to the terms of this voluntary moratorium may be approved at the discretion of Secretary of Higher Education on a case-by-case basis.



A handwritten signature in black ink, appearing to read "Daniel H. Lopez", is written over a horizontal line.

I, Daniel H. Lopez, President, New Mexico Tech, authorize this action on behalf of the New Mexico Council of University Presidents



A handwritten signature in black ink, appearing to read "Steve McCleery", is written over a horizontal line.

I, Steve McCleery, President, New Mexico Junior College, authorize this action on behalf of the New Mexico Association of Independent Community Colleges



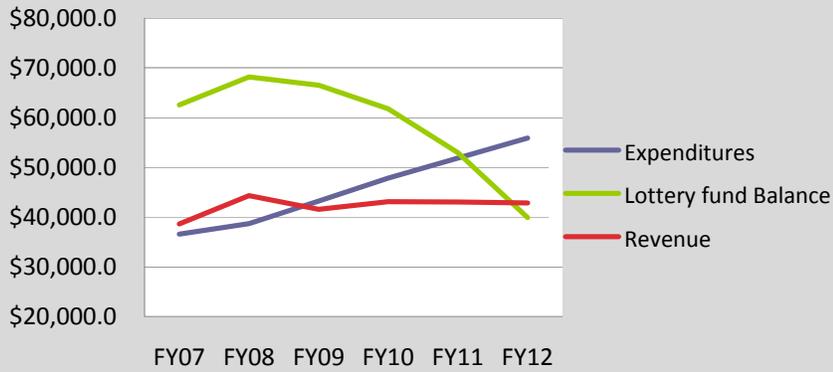
A handwritten signature in black ink is written over a horizontal line.



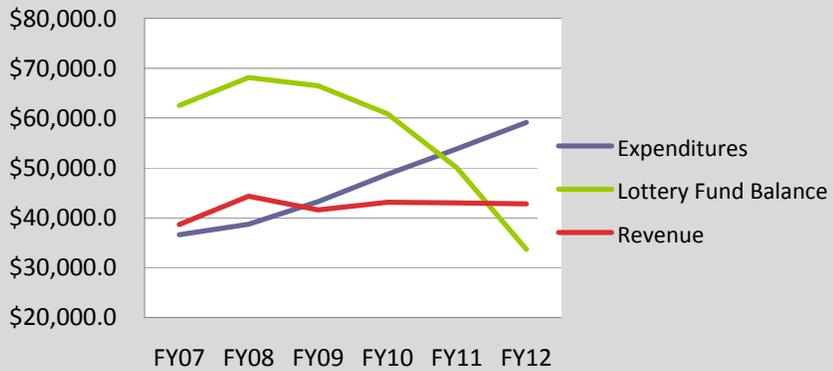
I, Cedric Page, Executive Director, University of New Mexico, Los Alamos Branch,
authorize this action on behalf of the New Mexico Association of Community
Colleges

LOTTERY SUSTAINABILITY MODELS

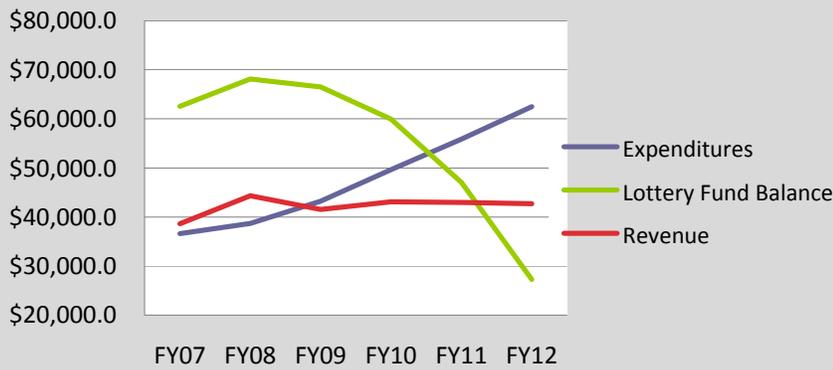
Lottery Sustainability at 5% Tuition Increase



Lottery Sustainability at 7% Tuition Increase



Lottery Sustainability at 9% Tuition Increase



Legislative Lottery Scholarship Sustainability - NMHED Model 09/09

Revenues and Expenditures (\$1000)						
Current Tuition	FY07	FY08	FY09	FY10	FY11	FY12
July 1 Balance	\$60,575	\$62,542	\$68,154	\$66,478	\$64,044	\$60,059
Lottery Income	\$34,830	\$40,811	\$41,008	\$41,768	\$41,768	\$41,768
Interest Income	\$3,791	\$3,500	\$553	\$1,330	\$1,281	\$1,201
Average cost per award	\$2,193	\$2,209	\$2,347	\$2,347	\$2,347	\$2,347
Number of Students	16683	17517	18426	19,404	20,044	20,565
Current Expenditures	\$36,654	\$38,698	\$43,237	\$45,532	\$47,034	\$48,256
June 30 Balance	\$62,542	\$68,154	\$66,478	\$64,044	\$60,059	\$54,772
Tuition at 5% Increase						
July 1 Balance	\$60,575	\$62,542	\$68,154	\$66,478	\$61,767	\$52,916
Lottery Income	\$34,830	\$40,811	\$41,008	\$41,768	\$41,768	\$41,768
Interest Income	\$3,791	\$3,500	\$553	\$1,330	\$1,235	\$1,058
Revenue	\$38,621	\$44,310	\$41,561	\$43,098	\$43,003	\$42,826
Average cost per award	\$2,193	\$2,209	\$2,347	\$2,464	\$2,587	\$2,716
Number of Students	16683	17517	18,426	19,404	20,044	20,565
Expenditures	\$36,586	\$38,698	\$43,237	\$47,808	\$51,854	\$55,862
June 30 Balance	\$62,542	\$68,154	\$66,478	\$61,767	\$52,916	\$39,880
Tuition at 7% Increase						
July 1 Balance	\$60,575	\$62,542	\$68,154	\$66,478	\$60,857	\$49,993
Lottery Income	\$34,830	\$40,811	\$41,008	\$41,768	\$41,768	\$41,768
Interest Income	\$3,791	\$3,500	\$553	\$1,330	\$1,217	\$1,000
Revenue	\$38,621	\$44,310	\$41,561	\$43,098	\$42,985	\$42,768
Average cost per award	\$2,193	\$2,209	\$2,347	\$2,511	\$2,687	\$2,875
Number of Students	16,683	17,517	18426	19404	20044	20565
Expenditures	\$36,586	\$38,698	\$43,237	\$48,719	\$53,849	\$59,116
June 30 Balance	\$62,542	\$68,154	\$66,478	\$60,857	\$49,993	\$33,645
Tuition at 9% Increase						
July 1 Balance	\$60,575	\$62,542	\$68,154	\$66,478	\$59,946	\$47,033
Lottery Income	\$34,830	\$40,811	\$41,008	\$41,768	\$41,768	\$41,768
Interest Income	\$3,791	\$3,500	\$553	\$1,330	\$1,199	\$941
Revenue	\$38,621	\$44,310	\$41,561	\$43,098	\$42,967	\$42,709
Average cost per award	\$2,193	\$2,209	\$2,347	\$2,558	\$2,788	\$3,039
Number of Students	16,683	17,517	18,426	19,404	20,044	20,565
Expenditures	\$36,586	\$38,698	\$43,237	\$49,630	\$55,881	\$62,493
June 30 Balance	\$62,542	\$68,154	\$66,478	\$59,946	\$47,033	\$27,248

Balance = Unreserved Undesignated Fund Balance

Lottery Income = Actual through FY09, projected figures through FY12 according to New Mexico Lottery.

Interest Income = Decline in interest income due to the recession. 2.0% average Interest income projected by Administrative Services Division starting

Expenditures = Tuition (average cost per award) x the number of lottery recipients

Average Cost Per Award = combined two- and four- year tuition rates

FY 11 to FY 12 Tuition and Fees Comparison

	FY 11 Total Tuition and Fees				FY 12 Annual Total Tuition & Fees				Difference Between FY 11 and FY12				Per cent Increase From FY 11 to FY 12				
	Undergraduate		Graduate		Undergraduate		Graduate		Undergraduate		Graduate		Undergraduate		Graduate		
	Resident	Non-resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	Resident	Non-Resident	
Research Institutions																	
NMIMT	\$4,942	\$14,620	\$5,133	\$15,495	\$5,285	\$15,738	\$5,492	\$16,684	\$343	\$1,118	\$359	\$1,189	6.9%	7.6%	7.0%	7.7%	
NMSU	\$5,400	\$16,680	\$5,808	\$17,088	\$5,827	\$18,269	\$6,278	\$18,720	\$427	\$1,589	\$470	\$1,632	7.9%	9.5%	8.1%	9.6%	
UNM	\$5,506	\$18,691	\$6,041	\$19,207	\$5,809	\$19,951	\$6,381	\$20,469	\$303	\$1,260	\$340	\$1,262	5.5%	6.7%	5.6%	6.6%	
Comprehensive Institutions																	
ENMU	\$3,900	\$9,432	\$4,332	\$9,864	\$4,147	\$9,658	\$4,566	\$10,114	\$247	\$226	\$234	\$250	6.3%	2.4%	5.4%	2.5%	
NMHU	\$2,952	\$4,632	\$3,168	\$4,872	\$3,264	\$5,328	\$3,504	\$5,616	\$312	\$696	\$336	\$744	10.6%	15.0%	10.6%	15.3%	
NNMC	\$1,306	\$2,699	n/a	n/a	\$2,827	\$11,187	n/a	n/a	\$1,521	\$8,488	n/a	n/a	116.4%	314.5%	n/a	n/a	
WNMU	\$3,811	\$13,411	\$4,027	\$13,627	\$4,030	\$13,414	\$4,270	\$13,630	\$219	\$3	\$243	\$3	5.7%	0.0%	6.0%	0.0%	
Branch Community Colleges																	
ENMU Roswell	\$1,339	\$4,580	n/a	n/a	\$1,656	\$5,421	n/a	n/a	\$317	\$841	n/a	n/a	23.6%	18.4%	n/a	n/a	
ENMU Ruidoso	\$764	\$2,660	n/a	n/a	\$812	\$3,020	n/a	n/a	\$48	\$360	n/a	n/a	6.3%	13.5%	n/a	n/a	
NMSU Alamogordo	\$1,656	\$4,440	n/a	n/a	\$1,824	\$4,872	n/a	n/a	\$168	\$432	n/a	n/a	10.1%	9.7%	n/a	n/a	
NMSU Carlsbad	\$964	\$2,980	n/a	n/a	\$1,036	\$3,388	n/a	n/a	\$72	\$408	n/a	n/a	7.5%	13.7%	n/a	n/a	
NMSU Dona Ana	\$1,368	\$4,056	n/a	n/a	\$1,488	\$4,656	n/a	n/a	\$120	\$600	n/a	n/a	8.8%	14.8%	n/a	n/a	
NMSU Grants	\$1,488	\$3,096	n/a	n/a	\$1,704	\$3,528	n/a	n/a	\$216	\$432	n/a	n/a	14.5%	14.0%	n/a	n/a	
UNM Gallup	\$1,518	\$3,348	n/a	n/a	\$1,518	\$3,348	n/a	n/a	\$0	\$0	n/a	n/a	0.0%	0.0%	n/a	n/a	
UNM Los Alamos	\$1,392	\$3,804	n/a	n/a	\$1,548	\$4,284	n/a	n/a	\$156	\$480	n/a	n/a	11.2%	12.6%	n/a	n/a	
UNM Taos	\$1,518	\$3,774	n/a	n/a	\$1,688	\$4,216	n/a	n/a	\$170	\$442	n/a	n/a	11.2%	11.7%	n/a	n/a	
UNM Valencia	\$1,434	\$3,648	n/a	n/a	\$1,561	\$4,182	n/a	n/a	\$127	\$534	n/a	n/a	8.9%	14.6%	n/a	n/a	
Independent Community Colleges																	
CNM	\$1,208	\$5,384	n/a	n/a	\$1,310	\$6,169	n/a	n/a	\$102	\$785	n/a	n/a	8.4%	14.6%	n/a	n/a	
Clovis CC	\$832	\$1,768	n/a	n/a	\$976	\$2,176	n/a	n/a	\$144	\$408	n/a	n/a	17.3%	23.1%	n/a	n/a	
Luna CC	\$814	\$1,942	n/a	n/a	\$886	\$2,230	n/a	n/a	\$72	\$288	n/a	n/a	8.8%	14.8%	n/a	n/a	
Mesalands CC	\$1,364	\$2,252	n/a	n/a	\$1,460	\$2,444	n/a	n/a	\$96	\$192	n/a	n/a	7.0%	8.5%	n/a	n/a	
NM Junior College	\$1,128	\$1,704	n/a	n/a	\$1,176	\$1,824	n/a	n/a	\$48	\$120	n/a	n/a	4.3%	7.0%	n/a	n/a	
San Juan College	\$912	\$2,328	n/a	n/a	\$1,128	\$2,760	n/a	n/a	\$216	\$432	n/a	n/a	23.7%	18.6%	n/a	n/a	
Santa Fe CC	\$979	\$2,155	n/a	n/a	\$1,063	\$2,467	n/a	n/a	\$84	\$312	n/a	n/a	8.6%	14.5%	n/a	n/a	
Special Schools																	
NMMI	\$2,876	\$6,639	n/a	n/a	\$3,374	\$7,649	n/a	n/a	\$498	\$1,010	n/a	n/a	17%	15%	n/a	n/a	

Average Tuition Increase by Type of Institution				
	Undergraduate		Graduate	
	Resident	Non-resident	Resident	Non-resident
Research	6.8%	8.0%	6.9%	7.9%
Comprehensive*	7.5%	5.8%	7.4%	5.9%
Branch Community Colleges	10.2%	12.3%	n/a	n/a
Independent Community Colleges	11.2%	14.4%	n/a	n/a
All Four-year Institutions*	7.2%	6.9%	7.1%	6.9%
All Two-year Institutions	10.6%	13.2%	n/a	n/a
Statewide*	10.0%	11.7%	7.1%	6.9%

*NNMC excluded

LEGEND	
NMIMT	New Mexico Institute of Mining and Technology
NMSU	New Mexico State University
UNM	University of New Mexico
ENMU	Eastern New Mexico University
NMHU	New Mexico Highlands University
NNMC	Northern New Mexico Community College
WNMU	Western New Mexico University
CNM	Central New Mexico Community College
CC	Community College
NMMI	New Mexico Military Institute

22-1-11. Educational data system.

A. As used in this section:

- (1) "council" means the data system council;
- (2) "data system" means the unified pre- kindergarten through post-graduate education accountability data system;
- (3) "data system partners" means the public education department and the higher education department;
- (4) "educational agencies" means other public agencies and institutions that provide educational services for resident school-age persons and children in state-funded private pre-kindergarten programs; and
- (5) "pre-kindergarten through post-graduate system" means an integrated, seamless pre-kindergarten through post-graduate system of education.

B. The data system partners, in consultation with the council, shall establish a data system, the purpose of which is to:

- (1) collect, integrate and report longitudinal student-level and educator data required to implement federally or state-required education performance accountability measures;
- (2) conduct research and evaluation regarding federal, state and local education and training programs at all levels; and
- (3) audit and ensure compliance of those programs with applicable federal or state requirements.

C. The components of the data system shall include the use of a common student identifier for the pre-kindergarten through post-graduate system and an educator identifier, both of which may include additional identifiers, with the ability to match educator data to student data and educator data to data from schools, post-secondary education programs and other educational agencies.

D. The data system partners shall convene a "data system council" made up of the following members:

- (1) the secretary of public education or the secretary's designee;
- (2) the secretary of higher education or the secretary's designee;
- (3) the secretary of children, youth and families or the secretary's designee;
- (4) the secretary of workforce solutions or the secretary's designee;
- (5) the secretary of economic development or the secretary's designee;
- (6) the secretary of information technology or the secretary's designee;
- (7) the secretary of human services or the secretary's designee;

- (8) the secretary of health or the secretary's designee;
- (9) the director of the office of education accountability or the director's designee;
- (10) the director of the public school facilities authority or the director's designee;
- (11) a representative from the office of the governor;
- (12) the presidents or their designees of one research university, one four-year comprehensive university, two branch colleges and two independent community colleges; provided that the presidents shall be selected by the data system partners in collaboration with organizations that represent the presidents of those institutions;
- (13) at least six public school superintendents or their designees; provided that the appointments by the data system partners shall be made so that small, medium and large school districts are equally represented on the council at all times;
- (14) at least three charter school administrators or their designees appointed by the data system partners;
- (15) the director of the legislative education study committee or the director's designee; and
- (16) the director of the legislative finance committee or the director's designee.

E. The council shall:

- (1) meet at least four times each calendar year;
- (2) create a management plan that assigns authority and responsibility for the operation of the data system among the educational agencies whose data will be included in the data system;
- (3) assist the educational agencies whose data will be included in the data system in developing interagency agreements to:
 - (a) enable data to be shared across and between the educational agencies;
 - (b) define appropriate uses of data;
 - (c) assure researcher access to data;
 - (d) assure the security of the data system;
 - (e) ensure that the educational system agencies represented on the council, the legislative education study committee, the legislative finance committee and other users, as appropriate, have access to the data system; and
 - (f) ensure the privacy of any person whose personally identifiable information is contained in the data system;
- (4) develop a strategic plan for the data system; and
- (5) create policies that ensure users have prompt and reasonable access to reports generated from the data system, including:

(a) identification of categories of data system users based on security level;

(b) descriptions of the reports that the data system is capable of generating on demand; and

(c) definitions of the most timely process by which users may retrieve other reports without compromising the security of the data system or the privacy of any person whose personally identifiable information is contained in the data system.

F. The data system strategic plan shall include:

(1) the development of policy and practical goals, including time lines and budget goals, that are to be met through the implementation of the data system; and

(2) the training and professional development that the data system partners will provide to users who will be analyzing, accessing or entering data into the data system.

G. The confidentiality of personally identifiable student and educator data shall be safeguarded consistent with the requirements of state and federal law. To the extent permitted by the data system partners in conformance with state and federal law, public entities participating in the data system may:

(1) disclose or redisclose data for educational purposes and longitudinal comparisons, analyses or studies, including those authorized by law;

(2) enter into agreements with other organizations for research studies to improve instruction for the benefit of local educational agencies, public schools and post-secondary educational institutions, subject to safeguards to ensure that the research organization uses the student records only for the authorized study purposes; and

(3) disclose education records to a student's former secondary school or school district upon request solely for purposes of evaluation or accountability for its programs.

H. Nothing in this section precludes the data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, from collecting and distributing aggregate data about students or educators or data about an individual student or educator without personally identifiable information.

I. The data system partners, in consultation with school districts, charter schools and public post-secondary educational institutions, shall jointly adopt rules to carry out the provisions of this section, including security administration requirements and the provision of training for data entry personnel at all levels.

J. By December 31 of each year, the data system partners shall submit a data system status report to the legislature and to the governor. Prior to submission and publication of the report referred to in subsection K, the data system partners shall distribute a draft of the report to school districts, charter schools and all public post-secondary educational institutions to allow comment on the draft report.

K. The data system partners, in consultation with school districts, charter schools and public

post-secondary educational institutions, shall develop and adopt the content and a format for the report, including the ability of the data system to:

- (1) connect student records from pre- kindergarten through post-graduate education;
- (2) connect public school educator data to student data;
- (3) match individual public school students' test records from year to year to measure academic growth, including student-level college and career readiness test scores;
- (4) report the number and percentage of untested public school students by school district and by school and by major ethnic group, special education status, poverty status and gender;
- (5) report high school longitudinal graduation and dropout data, including information that distinguishes between dropouts or students whose whereabouts are unknown and students who have transferred to other schools, including private schools or home schools, other school districts or other states;
- (6) provide post-secondary remediation data, including assessment scores on exams used to determine the need for remediation;
- (7) provide post-secondary remedial course enrollment history, including the number and type of credit and noncredit remedial courses being taken;
- (8) report post-secondary retention data that indicate whether students are returning the second fall term after being enrolled as full-time first-time degree-seeking students;
- (9) report to New Mexico public high schools on their students who enroll in a public post-secondary educational institution within three years of graduating or leaving the high school regarding freshman-year outcomes;
- (10) provide post-secondary student completion status, including information that indicates if students are making annual progress toward their degrees;
- (11) include data regarding students who have earned a general educational development certificate in reporting post-secondary outcomes;
- (12) report data collected for the educator accountability reporting system;
- (13) report pre-kindergarten through post-graduate student-level enrollment data, demographic information and program participation information;
- (14) report pre-kindergarten through post-graduate student-level transcript information, including information on courses completed, grades earned and cumulative grade point average;
- (15) connect performance with financial information;
- (16) establish and maintain a state data audit system to assess the quality, validity and reliability of data; and
- (17) provide any other student-level and educator data necessary to assess the

performance of the pre-kindergarten through post-graduate system.

History: Laws 2010, ch. 112, § 1.

Cross references. — For the public education department, *see* 9-24-4 NMSA 1978.

For the higher education department, *see* 9-25-4 NMSA 1978.

For the secretary of public education, *see* 9-24-5 NMSA 1978.

For the secretary of higher education, *see* 9-25-5 NMSA 1978.

For the secretary of children youth and families, *see* 9-2A-6 NMSA 1978.

For the secretary of workforce solutions, *see* 9-26-5 NMSA 1978.

For the secretary of economic development, *see* 9-15-5 NMSA 1978.

For the secretary of information technology, *see* 9-27-5 NMSA 1978.

For the secretary of human services, *see* 9-8-5 NMSA 1978.

For the secretary of health, *see* 9-7-5 NMSA 1978.

For the office of education accountability, *see* 9-6-15 NMSA 1978.

For the public school facilities authority, *see* 22-24-9 NMSA 1978.

For the legislative education study committee, *see* 2-10-1 NMSA 1978.

For the legislative finance committee, *see* 2-5-1 NMSA 1978.

Effective dates. — Laws 2010, ch. 112 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective May 19, 2010, 90 days after the adjournment of the legislature.