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August 23, 2010

**MEMORANDUM**

**TO:** Legislative Education Study Committee

**FR:** Ms. Eilani Gerstner

**RE: STAFF REPORT: GOVERNMENT RESTRUCTURING TASK FORCE:  
UPDATE**

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At the June 2010 Legislative Education Study Committee (LESC) meeting, the committee received a report on the membership and activities of the Government Restructuring Task Force (GRTF) (see Attachment 1, *The Creation of the Government Restructuring Task Force*, for a summary of the legislation that created the GRTF). Since that report, the task force has met three times (in June, July, and August 2010) to continue its charge to examine all of state government and to make recommendations leading to increased efficiencies and reduced costs, including those related to public schools. The approved work plan and meeting schedule for the GRTF are included as Attachment 2, *2010 Approved Work Plan and Meeting Schedule for the Government Restructuring Task Force*.

This staff report provides an update of the GRTF's activities since the June LESC meeting, in particular the task force's consideration of proposals to restructure both public education and state government. While the rest of the report provides some details on each of these two topics, one point should be emphasized now: at the August GRTF meeting, the task force requested interim committees and agencies, including the LESC, to review proposals related to their areas of expertise and provide feedback to the task force.

## **Public Education**

At the June 2010 GRTF meeting, the task force identified 32 proposals for restructuring public education (see Attachment 3, *Propositions to Address K-12 Education Restructuring*). Some were recommendations from the Governor's Committee on Government Efficiency (known as the *Carruthers Report*, published in January 2010), and others came from the June task force meeting. A staff subgroup comprising staff from the LESC, Legislative Council Service (LCS), Legislative Finance Committee (LFC), and Department of Finance and Administration (DFA) was assigned to analyze the recommendations.

At the July GRTF meeting subgroup members presented preliminary analyses of most of the proposals, identifying 11 that seemed to be of particular interest in terms of the charge of the task force. A task force member requested that a thirty-third recommendation be considered: analyzing the state's compliance with the federal *No Child Left Behind Act* (NCLB).

Of the 33 total recommendations, the task force members selected six for further consideration:

- Recommendation #1: merge the Public Education Department (PED) and the Higher Education Department (HED);
- Recommendation #6: defer Educational Retirement Board contributions by the state for another year;
- Recommendation #7: reduce the number of school districts;
- Recommendation #24: provide incentives for districts to save money, perhaps by raising the cap on cash balances;
- Recommendation #28: place the financial oversight of school districts and charter schools with DFA rather than PED; and
- Recommendation #31: implement the proposal in the state's Race to the Top application to establish a link between student growth and teacher performance and a corresponding link between teacher performance and teacher preparation program, with the Professional Practices and Standards Council recommending that the Secretary of Public Education close persistently ineffective teacher preparation programs (also referred to as "student achievement, teacher quality, and the influence of teacher preparation programs").

At the August GRTF meeting, staff presented more comprehensive analyses of three of the six recommendations. The analyses of these three items are in Attachment 4, *GRTF Staff Analyses of K-12 Restructuring Proposals*. The task force's actions on each item follows.

### ***Merge PED and HED***

Staff recommended that, rather than merging the two departments, each agency's internal structures be reviewed to identify how each department could be reorganized to increase

efficiencies and cost savings. The task force expressed interest in pursuing this proposal. Several task force members also expressed interest in hearing a more detailed analysis of merging the two departments; however, the task force voted five to four not to conduct this additional analysis.

Several task force members requested that the LESC provide feedback on this option in particular.

### ***Student achievement, teacher quality, and the influence of teacher preparation programs***

The task force expressed interest in pursuing this proposal and requested the following additional information:

- details on the teacher evaluation process, including forms used to conduct teacher evaluations; and
- examples of how other states have linked teachers' pay and evaluations to student academic performance.

Several task force members requested that the LESC provide input on this proposal as well.

### ***Reduce the number of school districts***

Staff testified that the Legislature currently does not have authority to consolidate school districts. Instead, school districts may choose to consolidate together or the Secretary of Public Education can order districts to consolidate. However, staff indicated that certain measures could be enacted that would "encourage" consolidation, such as changing the small district size adjustment in the public school funding formula, or setting statutory minimum memberships for a school district and providing an implementation period for existing districts to comply. The task force agreed to pursue this option.

## **State Government**

Also at the July 2010 meeting, the task force considered recommendations for restructuring state government. Those recommendations and the task force's actions are listed below.

### ***Martin Luther King, Jr. Commission (MLKJC) and Office of African American Affairs (OAAA)***

The task force heard three options related to these agencies and proposed a fourth:

1. eliminate the MLKJC and transfer those duties to the OAAA;
2. move the MLKJC to the Human Services Department (HSD);
3. assign one director and co-locate the two agencies; and
4. move the MLKJC to the Cultural Affairs Department (CAD).

The task force did not take action on these recommendations.

***Consolidate the Gaming Control Board and the State Racing Commission***

The task force discussed this recommendation and agreed to pursue it.

***Merge the Department of Homeland Security and Emergency Management with the Department of Public Safety***

The task force discussed this recommendation but did not take action on it.

*Additional Recommendation:* A task force member requested that the task force also investigate moving the juvenile justice program in the Children, Youth and Families Department (CYFD) to the Corrections Department and requested that option be added to the August agenda.

***Move the New Mexico Health Policy Commission to the Department of Health***

After some discussion, the task force agreed to continue to pursue this recommendation.

*Additional Recommendation:* A task force member requested that the GRTF also consider placing all Medicaid functions under one secretary.

***Move Youth Mentorship from DFA to CYFD***

The task force supported this recommendation, which entails moving funding for the youth mentorship program from DFA to CYFD.

***Move the Organic Commodity Commission to the New Mexico Department of Agriculture***

Staff testimony indicated that the commission and the department have already begun implementing this option, and the task force approved the recommendation.

***Move or sunset the Juvenile Public Safety Advisory Board***

The task force voted 11 to 1 to pursue this recommendation.

***Eliminate all or the General Fund portion of the Civil Legal Services Program funding***

The task force considered two options related to the Civil Legal Service Program, which charges docket fees to some patrons in order provide civil legal services to those who cannot afford them:

1. eliminate the General Fund portion of funding; or
2. eliminate the program entirely and reallocate docket fees elsewhere.

After some discussion, a motion was made to refer this issue to another interim committee, either the LFC or the Courts, Corrections and Justice Committee.

***Eliminate the Intertribal Ceremonial Office and move its functions to the Tourism Department's Cooperative Advertising Office***

Staff testimony indicated that this recommendation could save \$88,000, and the task force approved the recommendation.

***Topics for further research***

At the July meeting the GRTF also requested further research on the following options to reorganize state government:

- establish a commerce department;
- move all Medicaid waiver programs to HSD;
- merge the Aging and Long Term Services Department and HSD;
- establish an energy and environment department;
- establish a health care authority;
- reorganize the Public Regulation Commission; and
- reorganize the General Services Department.

***Consolidating employee benefit programs***

At the August meeting, the GRTF received a preliminary analysis of consolidating the employee benefit programs currently administered by the following agencies, also known collectively as the Interagency Benefits Advisory Committee (IBAC):

- General Services Department, Risk Management Division;
- the New Mexico Public Schools Insurance Authority;
- Albuquerque Public Schools; and
- the Retiree Health Care Authority.

Staff recommended consolidating all benefit plans administered under IBAC into one risk pool and creating one uniform plan design, rate structure, administration, and customer service organization for all public employees.

The task force agreed to pursue this option.

***Office of state attorneys***

Also at the August GRTF meeting, the task force heard a preliminary analysis on the creation of a statewide pool of attorneys that would serve school districts, agencies, and departments and eliminate the need to contract for legal services. Another option that was presented by staff was that each agency maintain its own lawyers, also eliminating the need to contract with legal firms.

The task force agreed to further investigate consolidating staff attorneys for all agencies under the direction of the Attorney General's Office.

## THE CREATION OF THE GOVERNMENT RESTRUCTURING TASK FORCE

Legislation enacted in 2010 (HB 237, or Laws 2010, Chapter 101, with the emergency clause) created the Government Restructuring Task Force, a 17-member body that has been charged to examine all of state government and to make recommendations leading to increased efficiencies and reduced costs. With particular attention to those points that may affect public education, this report will review the statutory provisions, summarize the meetings and activities of the task force thus far, describe the public comment that has been offered to the task force, note some final points about public education, and suggest some policy options for the Legislative Education Study Committee (LESC) to consider.

### Statutory Provisions

Among its duties, the Government Restructuring Task Force (GRTF) is charged to:

- study “the current resources of the state’s agencies, programs, services, funding and policies and the public needs served by them”;
- study the recommendations, initiatives, and statutory changes that occurred between 1975 and 1978 in reorganizing state government;
- examine “the statutes, constitutional provisions, rules and court decisions governing state government and reorganization and recommend legislation or changes”;
- solicit public input; and
- make two reports:
  - a report of findings and recommendations to the Governor and the Legislature, including presentations to the Legislative Council, the Legislative Finance Committee (LFC), and the LESL, by December 1, 2010; and
  - a final report with proposed legislation, supported by a majority of the task force members, to the Governor and all legislators by December 31, 2010.

The resources, programs, and polices that the task force must study include:

- the recommendations of the Governor’s Committee on Government Efficiency (commonly known as the *Carruthers Report*, published in January 2010);
- the need for consolidation of agencies and elimination or reduction of redundant, duplicative, or overlapping programs or services;
- current project staffing needs of state agencies; and

- current and projected revenue estimates for the next three to five fiscal years.

The legislation prescribes the membership of the task force:

- five House members appointed by the Speaker of the House and five Senate members appointed by the President Pro Tempore of the Senate, in both cases so that the two major political parties in each house have the same proportional representation on the task force as in the respective house;
- six public members who possess expertise in public and private sector organizational structure and who reflect the ethnic, cultural, and geographic diversity of the state, three appointed by the Speaker of the House and three by the President Pro Tempore of the Senate; and
- the Secretary of Finance and Administration.

In addition to these members prescribed by law, the task force comprises eight advisory members: four representatives and four senators, appointed by the leader of each house, respectively. The Attachment, *2010 Approved Work Plan and Meeting Schedule for the Government Restructuring Task Force*, provides a list of all members.

Among its other provisions, the legislation:

- requires the task force to meet at least once and no more than twice per month, beginning no later than April 22, 2010;
- provides for the creation of subcommittees through majority vote of the members and prescribes the members of any subcommittees;
- requires the Department of Finance and Administration (DFA) and “the various agencies of the state” to cooperate with the task force “and provide the task force with information regarding budget, staffing, organizational structure and other information” as requested; and
- requires the Legislative Council Service (LCS), the LFC, the LESC, and DFA to provide the staff for the task force.

**2010 APPROVED  
WORK PLAN AND MEETING SCHEDULE  
for the  
GOVERNMENT RESTRUCTURING TASK FORCE**

**Members**

Sen. Tim Eichenberg, Chair  
Rep. Patricia A. Lundstrom, Vice Chair  
Patrick Baca  
Rep. Paul C. Bandy  
Rep. Keith J. Gardner  
John Gasparich  
Dr. Dan Lopez  
Sen. Linda M. Lopez  
Michelle Lujan Grisham

Rep. Rick Miera  
Sec. Katherine B. Miller  
Sen. Steven P. Neville  
Jim O'Neill  
David Ortiz  
Sen. William H. Payne  
Sen. John Arthur Smith  
Rep. Luciano "Lucky" Varela

**Advisory Members**

Sen. Carlos R. Cisneros  
Sen. Mary Jane M. Garcia  
Rep. Joni Marie Gutierrez  
Sen. Stuart Ingle

Sen. Lynda M. Lovejoy  
Rep. James Roger Madalena  
Rep. Al Park  
Rep. Jeannette O. Wallace

**Background**

The current economic downturn is expected to last for some time. This situation has created an opportunity for the state to examine the structure and operation of state government, rethink priorities and ensure that programs are operated and services are provided in the most effective and efficient manner possible. The main questions to be asked are:

- What are the essential services the state must deliver?
- What is the most effective way to accomplish the state's goals with the funds available?

House Bill 237 (Laws 2010, Chapter 101) created the Government Restructuring Task Force. It required the first meeting to be held no later than April 22. The task force held a meeting on April 21 and selected a chair and vice chair. At that meeting, the task force received presentations on the requirements of HB 237; a historical perspective of New Mexico government structure, funding and previous restructuring initiatives; and a summary of other states' recent efforts to restructure their respective state governments.

The law directs the task force to "study the current resources of the state's agencies, programs, services, funding and policies and the public needs served by them, including the:

- (1) recommendations of the governor's committee on government efficiency;

(2) need for consolidation of agencies and elimination or reduction of redundant, duplicative or overlapping programs or services;

(3) current and projected staffing needs of state agencies for full-time, part-time, term, temporary and contract employees; and

(4) current and projected revenue estimates for the next three to five fiscal years". Additionally, the task force is charged with soliciting public input, studying the restructure of state government that occurred from 1975 to 1978, examining all laws governing state government and recommending legislation or changes. All state agencies are required to provide information to the task force as needed.

### **Work Plan**

The task force proposes to study the specific areas outlined in HB 237, as noted above. At its first meeting, the task force members generally agreed that nothing is off the table; that is, all three branches of government and their respective agencies and programs are subject to review and possible restructuring. Specifically, the task force, in determining what essential services state government should provide, proposes to:

- have the New Mexico Legislative Council direct each interim committee to include, as a major part of each work plan, any findings and recommendations on the restructuring of any of the agencies or programs that each committee reviews or oversees;
- review the structure of state government as it exists and currently operates as well as how the structure is set out in law;
- identify areas of large expenditures;
- examine the inventory of state agencies, boards and commissions created in law;
- assess the effectiveness and efficiency of the various agencies and programs, particularly in light of the task force's consideration of what essential services should be provided;
- request presentations by agencies to help the task force identify redundancies or duplications and the benefits or consequences of consolidating or eliminating certain programs or services;
- explore the provision of online services to realize concomitant reduction in staff and offices; and
- review the sources of revenue, including efforts to better leverage existing funding and identify alternative revenue sources.

To accomplish its tasks by the December 2010 deadline established in HB 237, the task force may wish to consider the use of a facilitator or other consultants to assist the task force in prioritizing the areas to be reviewed.

## 2010 APPROVED MEETING SCHEDULE

<u>Date</u>	<u>Location</u>
April 21	Santa Fe
May 24-25	Santa Fe
June 21-22	Santa Fe
July 29-30	Santa Fe
August 19-20	Santa Fe
September 16-17	Santa Fe
October 14-15	Santa Fe
November 11-12	Santa Fe
November 22	Santa Fe
December 20	Santa Fe

**PROPOSITIONS TO ADDRESS K-12 EDUCATION RESTRUCTURING:**

**ADAPTED FROM THE *CARRUTHERS REPORT* AND  
FROM THE TASK FORCE MEETING, JUNE 21, 2010**

**From the *Carruthers Report***

1. Merge the Public Education Department (PED) and the Higher Education Department (HED).
2. Remove or reduce the small school size adjustment in the public school funding formula.
3. Remove the small district size adjustment in the public school funding formula.
4. Expand the role of the regional education cooperatives in providing services to school districts.
5. Reduce the multiplier in the public school funding formula for the senior year from 1.25 to 1.045.
6. Defer Educational Retirement Board contributions by the state for another year.
7. Reduce the number of school districts.
8. Modify and/or incorporate the three-tiered licensure system into the Training and Experience Index.

**From the Task Force Meeting**

***Programmatic***

9. Hold a three-day working session, attended by a wide range of stakeholders statewide, to examine the K-12 education system in detail and to make recommendations for restructuring, cost-savings, and improved outcomes.
10. Make a broader use of Innovative Digital Education and Learning – New Mexico (IDEAL-NM) in providing online courses for students and online professional development for teachers.
11. Increase the maximum pupil/teacher ratios (PTRs) in state law.
12. Better define whether the Public Education Department's (PED's) role is technical assistance or compliance or both.

13. Use performance contracts to define charter school performance in terms of accomplishing the goals of the charter, together with clarifying the process for closing charter schools that do not meet their performance goals.
14. Extend the use of performance contracts to traditional public schools.
15. Implement “smart caps” to facilitate the replication of successful charter school models.
16. Place a temporary moratorium on the authorization of new charter schools.
17. Reduce both the number of tests given to students and the amount of time spent on testing, perhaps retaining only those tests that are required by federal law or that demonstrate clear instructional value.

### *Fiscal*

18. Implement a statewide 5.0-mill property tax levy to supplement the General Fund.
19. Expand the use of electronic formats in (1) school business applications like contracts and memoranda of understanding; and (2) educational applications like online courses and textbooks or other resource material.
20. Examine the related services (ancillary) multiplier of 25 in the public school funding formula to determine whether a lower multiplier would suffice.
21. Suspend all new public school construction for a specific period.
22. Examine the fiscal impact of existing charter school facilities in terms of lease payments, improvements, and the creation of an additional infrastructure beyond that of school districts.
23. Eliminate the categorical restrictions to allow school districts more flexibility with their budgets.
24. Provide incentives for districts to save money, perhaps by raising the cap on cash balances.
25. Make school district cash balances more visible.
26. Implement the proposed public school funding formula: (a) in full with sufficient funding; (b) phased in over a period of three years; or (c) in piecemeal fashion with incremental funding.
27. Examine the paperwork burden placed on school districts and charter schools in an effort to streamline it, to reduce duplication, or to eliminate unnecessary paperwork.
28. Place the financial oversight of school districts and charter schools with DFA rather than PED.

29. Review public school transportation to identify possible cost-saving measures, with particular attention to planning more efficient bus routes.

*Contractual*

30. Revise the nine teacher competencies in the current teacher evaluation system to place more emphasis, and more consequences, on student growth.
31. Implement the proposal in the state's Race to the Top application to establish a link between student growth and teacher performance and a corresponding link between teacher performance and teacher preparation program, with the Professional Practices and Standards Council recommending that the Secretary of Public Education close persistently ineffective teacher preparation programs.
32. Provide signing or relocation incentives for Level 2 and Level 3 teachers to teach in high-needs schools.

*GRTF Staff Analyses of K-12  
Restructuring Proposals*

**Core Services Category:** Education**Study Area:** Public Education Department/Higher Education Department Consolidation**High Level Recommendation:**

Review internal structures of PED and HED to see if overhead can be reduced and resources moved into direct services to students. Reorganize each department independent of a merger to create efficiencies and cost savings. This option would likely lead to more efficient and effective use of staff.

**Problem Statement:** PED and HED have proven to be relatively ineffective oversight agencies. Governance structures at the departments, as well as local governance by school boards and boards of regents, are weak, and the mission and statutory focus of each agency is too diffuse.

With regard to public education, children are failing to demonstrate significant increased academic achievement, drop-out rates remain high, and of those students that do graduate and continue on to college a high percentage require remediation. In many cases, public school exit requirements are not aligned with higher education entrance requirements, resulting in the lack of a seamless transition from high school to college. Despite department efforts, the issues still exist.

Higher education concerns include low graduation rates, the inability to articulate transfer agreements between institutions, the slow pace in developing an effective funding formula, the proliferation of campuses and programs statewide, and difficulty in addressing completion issues. These issues are primary to the oversight and compliance function of HED. Despite department efforts, progress among institutions has been slow.

Efficiency concerns that affect both departments include double funding of dual credit programs including instructional material allocations, adult basic education, and IDEAL-NM.

**Background and Findings:**

- The Committee on Government Efficiency recommended merging PED and HED as a means of saving general fund dollars. Other supporters of this plan indicate that the merged agency would create a more seamless transition between high school and college, supporting the concept of a single P-20 or P-career education system.
- PED is established by Article XII, Section 6 of the New Mexico Constitution. That section grants the secretary of public education “administrative and regulatory powers and duties, including all functions relating to the distribution of school funds and financial accounting for the public schools...” PED’s structure and responsibilities are detailed in Chapter 9, Article 24, NMSA 1978, and the Public School Code, 22-1-1, et. seq. NMSA 1978. Eleven divisions are established: Administrative Services, Assessment and Accountability, Charter

Schools, Educator Quality, Indian Education, Information Technology, Instructional Support and Vocational Education, Program Support and Student Transportation, Quality Assurance and Systems Integration, Rural Education, and Vocational Rehabilitation. After the recent 3.2 percent general fund reduction, PED's general fund budget totals \$13.7 million with 314.8 FTE authorized. Currently, PED reports a 26 percent vacancy rate.

- HED is established in Chapter 9, Article 25, NMSA 1978. The statute creates the following nine divisions in HED: Administrative Services, Planning and Research, Financial Aid, Public Information and Communications, Adult Basic Education, Information Technology, Private and Proprietary Schools, Public Schools Liaison, and American Indian Post-Secondary Education. After the 3.2 percent general fund reduction, HED's general fund budget totals \$38.9 million, including \$22.9 million for student financial aid, with 51 FTE authorized. Currently, 28 percent of HED general fund supported positions are vacant.
- Given high vacancy rates in both agencies and substantial budget reductions since FY09, it is unlikely that merging the two entities will result in significant savings. The highest vacancy rates in the two departments have occurred in senior management and ASD functions. HED is holding four exempt senior management positions and one ASD position vacant. PED has six exempt senior management positions vacant, as well as three positions in the Office of Inspector General, eight positions in the Information Technology Division, and six positions in the Administrative Services Division. Both agencies have experienced service interruptions and bottlenecks due to the current hiring freeze, with the institutional finance/financial compliance divisions in both agencies sustaining high vacancy rates which interfere with their ability to meet deadlines and to perform oversight functions.

### **Options to Consider**

- Review each agency's internal structure to determine if internal restructuring, including the possible elimination of divisions or staff, would result in significant savings or better alignment with statutory duties.
- Narrow statutory focus of each department to better serve the core mission.
- Move public school and institutional finance to DFA. The New Mexico constitution must be amended in order to move public school finance functions to DFA. See Implementation Plan for time frame.

### **Fiscal Implications**

- Both PED and HED are experiencing staff shortages in their financial oversight functions that are not being filled as a result of the hiring freeze. Merging the two agencies would compound this problem by combining understaffed bureaus to oversee roughly 60 percent of the state budget.
- Cost savings that are a direct result from merging the two departments might be realized by eliminating certain positions that are duplicative between the two departments, e.g. Secretary, ASD director, General Counsel, PIO, IT manager,

- and HR manager. It appears that the elimination of these positions in a merge would result in a modest savings of less than \$500 thousand.
- Although a position by position analysis has not been completed, it appears that some cost savings could be realized from reorganizing PED; however, reorganization of HED, which appears to be understaffed, could potentially offset any savings realized from PED reorganization.
  - Caution should be taken when considering eliminating vacant positions to generate cost savings, as they may already be unfunded.

### **Implementation Plan**

Merging PED and HED would require an Amendment to the NM Constitution – either eliminating PED altogether, or amending Article XII to create a new department of education. A constitutional amendment could not be effectuated any earlier than September 2011, but more likely during 2012.

- A joint resolution must be passed by a majority of all members of the House and the Senate during a regular session.
- Constitutional amendment could be submitted to the voters during either:
  - A special election, after the passage of the joint resolution, no earlier than 6 months after the adjournment of the session. The Secretary of State's office reports a special election would cost \$4 to \$4.5 million. Earliest possible special election September 2011; OR
  - The next regular election after passage of the joint resolution. Next regular election currently anticipated would be November 2012.

As a result of this, it appear that the merger of PED and HED could be effectuated and funded no earlier than FY13, and more likely FY14. In addition to the joint resolution and constitutional amendment:

- Current statutes would need to be repealed or amended, and new law enacted to create the merged department (if not created by constitution) and define the department's responsibilities and duties.
- In order to make legislative changes during the 2012 30-day session, a message from the governor would be required.

**Core Services Category: Education**

**Study Area:** Student Achievement, Teacher Quality and Influence of Teacher Preparation Program

**Proposed Directive:** Implement the proposal in the state's race to the top application to establish a link between student growth and teacher performance and a corresponding link between teacher performance and teacher preparation programs, with the professional practices and standards commission recommending that the secretary of public education close persistently ineffective teacher preparation programs.

**High-Level Recommendation:** Propose legislation either in the form of a temporary statute with a sunset clause or a memorial requesting a full study of the issue. For the study to be thorough and to identify the various implications that could emerge from changes in statute and rule related to teacher evaluation, a wide array of stakeholder groups will need to be involved and the study will require funding. A study conducted in the recent past on the public school funding formula could serve as a model for outreach, inclusion and development of a new policy framework.

**Problem Statement:**

➤ *State the problem — inefficiency, ineffectiveness, cost-saving opportunity, etc.*

The central problem this initiative seeks to address is how best to correlate student academic achievement with the performance of individual teachers and, consequently, to identify teacher preparation programs in the state of New Mexico that are persistently underperforming as measured by the in-class performance of their graduates.

New Mexico currently has some capacity to correlate student performance on standards-based assessments to individual teachers; however, a fully articulated ability to link teacher preparation programs and program graduate performance as determined by student academic achievement has not been developed. As required by statute, the various teacher preparation programs cooperatively generate the annual educator accountability report. This report currently provides information from the various teacher preparation programs related to the number of program completers, fields of study and ethnicity and includes information on teacher scores related to licensure, but it does not make any connection with student performance. Currently there exists no direct connection between the databases maintained by the various institutions of higher education (IHEs) and the public education department's student teacher accountability reporting system (STARS), i.e., K-12 data system. Developing this connection is part of a larger policy goal to create a seamless P-20 data system that integrates the various data systems from not only the education agencies but other agencies.

**Background and Findings:**

➤ *Explain how a function or process works today. Cite appropriate statutes or other authoritative references.*

The state implemented a three-tiered teacher licensure system in 2003 as a component of the public schools reforms bill (Laws 2003, Chapter 153). Consequently, the licensure system was established in Chapter 22, Article 10A NMSA 1978, the School Personnel Act. The evaluation system applies to all teachers at all three levels and is used to help determine annual performance within a licensure level, as well as for gauging readiness for movement between levels. To become licensed in New Mexico, beginning teachers must complete a preparation program recognized by the state, receive a degree and pass an initial licensure examination for entrance into the profession. The initial license, known as a level 1, is good for up to five years, with the statutory specifics of the licensure process detailed in Section 22-10A-7 NMSA 1978. During the initial licensure period, the teacher is to receive mentoring from qualified personnel and receive summative evaluations, which are detailed in Section 22-10A-9 NMSA 1978.

The evaluation system for teachers is further elaborated in 6.69.4 NMAC, which spells out the nine core competencies teachers are expected to demonstrate, time lines for submissions and the consequences for failure to complete the process on a timely basis or incompetence. Each of the nine competencies currently includes various elements that focus on improving student academic outcomes and comprises a significant focus on how teachers are evaluated. There is currently no statutory- or rules-mandated means in place for linking individual teachers and their student achievement back to preparation programs that teachers attended prior to licensure. The requirement for the educator accountability report is established in Section 22-10A-19.2 NMSA 1978.

➤ *Describe in detail the problem — inefficiency, ineffectiveness, cost-saving opportunity, etc. — and describe the impact of such to the state, local governments, business, clients, etc.*

- Having an evaluation program that gauges quality, effective teaching is a goal that many groups have sought to implement with mixed degrees of success. This challenge is particularly acute in regards to linking student achievement and academic growth to an individual teacher though the use of standardized/standards-based assessment (SBA). Some of the reasons for this limited applicability include the following:
  1. Not all subject areas have SBAs upon which to link student and teacher performance. The SBAs administered in New Mexico include reading, mathematics, science and social studies, thus leaving out such subjects as music, art, physical education, foreign languages and any other subject not within this group of four.
  2. SBAs are only administered in grades 3-8 and 11, thus excluding a substantial population of teachers, especially at the elementary and high school levels.
  3. State-level examinations are a snapshot in time and are unable to take into

## B

consideration whether students are sick the day of the exam or are otherwise compromised in their test-taking capacity by external factors, such as hunger, domestic situations, lack of engagement, etc.

4. SBAs are administered in March, approximately three-quarters of the way through the academic year, and, therefore, cannot fully reflect what a student may learn for the entire school year.
  5. Not all teachers licensed and practicing in New Mexico attended a college of education within the state. Therefore, a distinct means of assessing the performance of these individuals, vis-à-vis those who received their preparation in the state, will need to be articulated.
- The New Mexico SBA is aligned to the New Mexico content standards, benchmarks and performance standards and is made up of various types of questions including: multiple choice and constructed response, as well as a written component. Scores are based on meeting a certain level of mastery of the material and are recorded as a beginning step, nearing proficient, proficient and advanced. The cut scores that determine these various levels of achievement are set by a coordinating committee composed of educators from across the state as well as personnel from the public education department.
  - Student scores on standardized exams can serve as one measure for teacher academic performance; however, overemphasis of this measure will likely serve to distort the perceived quality of any one teacher. Teaching is contingent upon a host of elements, not only upon individual quality and competence. The individual school situation is made up of a large number of external variables over which the teacher or a teacher preparation program has little, if any, control. These external factors include the socioeconomic status of the school population, substance or alcohol abuse within the household, domestic or sexual abuse among family members, unemployment status, mental or emotional problems, community crime, English language proficiency, special needs and others. While these factors affect all teachers at a school, special consideration must be exercised for beginning teachers. Any method put into place for gauging the quality of teacher preparation programs will have to take into account that beginning teachers need at least a couple of years to acculturate themselves to the reality of the profession. Conversely, in the sense of fairness to the preparation programs, some cut-off point must be established, perhaps at the fifth year of individuals being in the profession, in holding them accountable for the quality of their graduates. At that point, if the individuals have not been able to meet all competencies to move from a level 1 to level 2 license, they are statutorily required to be removed from the profession and must cease teaching in public schools in New Mexico. Beyond that five-year point, teacher preparation programs cannot realistically be held accountable for the ongoing performance of their graduates. Rather, the responsibility must be borne by the individual teacher and to an equal degree by the districts they teach in for lack of professional development, mentoring and other

means of support for improving teaching quality.

➤ **Provide documentation of the problem, inefficiency, ineffectiveness, etc.**

The public education department creates annual reports related to state, district and school performance related to the New Mexico SBA as well as other data related to public schools in the state. Readers are directed toward the agency web site (<http://www.ped.state.nm.us/>) to access electronic versions of these documents.

➤ **Describe opportunities to solve problems and improve efficiencies and effectiveness.**

- The current teacher evaluation system, based on meeting the various competencies, mentoring, scoring process, etc., was developed in conjunction with the participation of administrators, teachers, IHE faculty and state agency personnel prior to being implemented in 2003. A review of the system should include members of the same stakeholder groups as well as from other interested parties as deemed appropriate.
- Because New Mexico's teacher evaluation system has been in place for several years, it may be considered to have achieved a level of maturity, with teachers having grown accustomed to meeting the various expectations it has established. Thus, revisiting the evaluation system for possible revision is justified.
- As referenced in the race to the top application, the value added system used by the state of Tennessee for teacher evaluation does not exist in New Mexico. Tennessee's system has been implemented over a period of several years and has included staff development to run the system properly and to be able to interpret data. If New Mexico chooses to implement a similar type of value-added evaluation system for teachers, various costs would have to be calculated.
- A value-added system of teacher evaluation as used in Tennessee is one option to consider. Other entities have developed systems of educator evaluation that should also be reviewed, e.g., Denver, Colorado; Toledo and Cincinnati, Ohio; the Millken family foundation's teacher assessment program (TAP); and the national board for professional teaching standards (NBPTS), for their possible applicability to New Mexico.
- If one of the goals of the study is to increase the number of effective teachers in high-needs schools, a system of incentives is probably called for to promote

## B

this type of staffing. Again, members of the work group could investigate what types of incentives, monetary and otherwise, could be developed.

- The federal government is currently considering the next reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). The George W. Bush administration's reauthorization of ESEA was known as the No Child Left Behind Act of 2001, which fundamentally altered the relationship between the federal government and state and district education authorities. The Obama administration could issue a reauthorization of ESEA that could produce major changes as well.

### **Options to Consider:**

*Summarize in priority order main options to address findings/problems.*

*Describe in detail the different elements of the options.*

*Describe the impact of the options to local governments, businesses, clients, etc.*

*Describe any other significant issues that should be considered in evaluating the option.*

### **Elements of the Option:**

- Pass legislation (either a temporary statute or a memorial) to form the work group to conduct the study. The work group itself will be responsible for developing the ultimate set of recommendations that is the goal of the study.
- Establish a work group composed of appropriate stakeholders to study:
  1. the current teacher evaluation system;
  2. the various methods that have been established across the country (e.g., Denver, Toledo and Cincinnati; the state of Tennessee; the Millken family foundation's TAP; the NBPTS; and others) that link student academic outcomes with individual teacher performance;
  3. how best to establish a means of determining the linkage between teacher preparation programs and the performance of their graduates who enter the teaching profession in New Mexico and implement this method in a cost-efficient manner; and
  4. the fairness and equitable protections, including due process, pay incentives, if any, and other elements, for supporting improved teacher quality provided by a modified or new evaluation plan.
- Provide state funding to support the activities of the work group. Items that are justified for receiving funding include:
  - meetings, transportation, per diem and mileage costs;
  - contractor and expert fees;
  - public comment opportunities;
  - reporting development and publication costs; and

- cost assessments related to implementing recommendations developed by the work group.

**Projected Impacts:**

- Participants will be drawn from various state agencies, school districts, institutions of higher education, teacher unions and other nongovernmental organizations. Time committed by these groups for the study will draw them away from other job responsibilities, possibly causing conflicts with workloads and other obligations.
- Statutes and rules will be affected.
- Forms, administrative guidelines and manuals connected to the evaluation system will have to be revised.
- Training in the new evaluation system will need to be developed and implemented for teachers as well as those who conduct the evaluations.

**Other Significant Issues:**

- The current lack of a seamless P-20 data system in New Mexico currently impedes the ability of anyone to undertake the type of study requested in this directive in a time- and cost-efficient manner.
- To conduct this study, various staff members assigned to the study from among the stakeholder groups will need to identify data sources, secure ways of sharing data, determine compatibility of data, establish data access privileges, etc.
- Many of these details can be worked out by the data governance council, which was established in statute during the 2010 session. While a similar governance body was formed by executive order in 2009, the council established in statute is scheduled to meet for the first time in September.
- The council is co-chaired by the secretaries of public education and higher education with membership composed of representatives from various agencies, legislative committees, institutions of higher education and other entities. Because the current administration ends on December 31, 2010, it is probable that the individuals assigned to chair the council or to serve as members will likely be replaced.
- As a consequence of these various significant issues, the direction of policy formation through this body and the speed with which any new initiative can be implemented in the near term is uncertain.

**Fiscal Implications:**

*Summarize estimated fiscal implications; consider whether savings/impacts to revenue affected by prior budget reductions or other savings initiatives considered by the task force:*

- *Narrative, including potential savings, cost to implement or impact to revenues*

## B

*(itemize projected savings as much as possible)*

- *Table on GF and other funds savings, by fiscal year*
- *Table on GF and other funds cost to implement, by fiscal year*
- *Table on GF and other funds revenues impacts, by fiscal year*
- The state submitted an application in December 2009 to the institute of educational sciences within the U.S. department of education for a grant to develop a P-20 state longitudinal data system. The grant request was for \$20 million over a three-year period. This application was rejected. Consequently, the state is considering submission of a new application in the upcoming cycle expected to commence in January 2011. The dimensions of the funding request in the next application are not yet determined.

### **Implementation Plan:**

- *Plan to implement recommendation (e.g., administratively, by rule or by law), including timing.*
  - Pass temporary legislation or a memorial requesting a study during the 2011 legislative session.
  - Form the work group in spring 2011 and allow work to commence from spring to fall 2011, with hearings on recommendations in fall 2011.
  - Legislation based on the recommendations of the work group could conceivably be proposed and passed during the 2012 session.
  - Subsequent changes to rules could be achieved during spring 2012.
- *Identify key stakeholders/obstacles.*
  - ❖ *Key stakeholders include:*
    - the various entities identified as members of the data governance council established statutorily during the 2010 legislative session, including state agencies, legislative committees, institutions of higher education, school districts, charter schools, etc.;
    - teacher unions; and
    - other professional organizations related to education.
  - ❖ *Various obstacles include:*
    - the lack of a seamless P-20 data system;
    - the end of the current executive administration, which will result in the probable turnover of many of the members assigned to the data governance council, which could produce significant changes in any established policy direction;
    - uncertainty related to the passage of any legislation that would form a work group and to provide funding for its support and operation;
    - uncertainty related to whether New Mexico will submit a new application for

## B

grant support to develop a SLDS and the related uncertainty concerning whether the grant will be awarded; and

- that each IHE has an independent board of regents. Colleges of education often serve as a large source of funding for IHEs. If a college of education is threatened with being shut down for lack of performance there is a high probability the regents would do whatever they could to see that did not happen.
- *Plan to capture savings.*
- Until a full cost study is completed, potential savings, if any, remain unidentified.
  - Because of the scope of the study and the need for an enhanced longitudinal data system to conduct the types of analyses required, there may be significant future costs.
- *Identify "champion" responsible for implementation.*
- Indeterminate.

## # 7. Reduce the number of school districts. (LCS — Maison)

### *Overview*

- This is a Carruthers report recommendation. Task force members have also asked staff to look at providing for administrative consolidation as an alternative.
- Of the 89 school districts, 35 have student populations under 500 (SY 2009-2010 40D); another 13 have a student population under 1,000. There are seven districts that have fewer than 100 students. See the attached map for districts and membership (MEM). Twenty-four districts receive emergency supplemental funding because they are too small to generate the necessary program units to pay the costs of operating. Every school district has at least one elementary and one high school; all but nine have configured their grades to include a middle school as well.
- State law (Section 22-8-8 NMSA 1978) does not allow a school district to have a school with an average daily membership of fewer than eight students without express secretary approval. Mosquero is currently the smallest district, with 43 students.
- There are necessarily small districts. Some districts were created because geographical features, such as mountains, or long distances made transportation difficult on students. Some of those reasons still exist today; some do not. Politics created some districts, which may have been fine when local districts were responsible for funding their schools, but now that state taxpayers pay the tab, that may not be a good enough reason to have the number of school districts in the locations they serve.
- Merging school districts should make it possible to reduce the overhead associated with operating K-12 education and put more money into classrooms. For example, the number of elected boards, superintendents and central offices would be reduced. Also, consolidation of districts might encourage communities to seek efficiencies in the number and location of schools.
- Although legislators have expressed no desire to close schools as a result of redistricting, that may not be a tenable position. If two or three small districts are consolidated but still only have 1,000 students, can a future legislature justify funding two or three separate high schools in the new district? Also, redistricting may not result in significant cost savings if schools are not closed. On a related note, while the legislature has the power to create or alter school districts at will<sup>1</sup> and without the request or assent, or even against the protest, of the affected

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<sup>1</sup> There are some limitations on that power, e.g., the legislature could not redistrict in such a way as to violate students' civil rights.

communities, it has so far in history seen fit to leave that function to the executive branch.

- Transportation will likely remain an issue in some areas of the state. Low-enrollment districts tend to be in sparsely settled areas that require more transportation.
- All redistricting ideas require the dissolution of current local boards, the appointment of interim boards and the election of new boards.

### ***Cost Savings***

- Difficult to calculate because savings depend on specific configurations of districts or consolidated services. Emergency supplemental funding for FY 2010-2011 for small school districts is \$9.3 million, although all of that amount would not necessarily be available for redistributing through the funding formula or the general fund.

### ***Time Frame***

- Long term. If districting is to be done by the legislature, it will have to determine school district boundaries. The legislature could order PED to undertake consolidation of districts, and it might choose to develop the criteria upon which PED would consider consolidations. In either instance, legislation would need to be approved and a study undertaken.
- This study is not likely to be possible within normal resources of the legislature, PED or school districts. Whether conducted by the legislature or PED, a study probably will require a contract with demography and school finance experts.

### ***Basic Issues to be Resolved for Redistricting***

- Bonded indebtedness and mill levies of existing and proposed districts — for each district configuration under consideration.
- Debt capacity of existing and proposed districts — for each district configuration under consideration.
- Population demographics of existing and proposed school districts, including:
  - estimated number and configuration (elementary, middle and high schools) of students currently attending and projected to attend;
  - ethnicities of general and student populations;

- ▶ economic levels of populations in existing and proposed districts, including such things as family income and homeownership rates and patterns as indicators of student status and potential student mobility rates;
  - ▶ adult educational attainment levels in existing and proposed districts (again, an indicator of student status); and
  - ▶ existing and proposed school district growth patterns, which determine how many of what kinds of schools will be needed in the future.
- The number and condition of elementary, middle and high school buildings in the existing and proposed school districts.
- The ability of the proposed school districts to raise operational and capital funds.
- The effects of redistricting on transportation costs of the existing and proposed school districts.
- The cost of abandoned assets.

**Note of caution:** Redistricting may result in lawsuits in addition to the required action for a court order on involuntary consolidations in Section 22-4-3 NMSA 1978. Potential plaintiffs might include parents, property owners, staff and minors.

### ***Option 1 — Redistrict School Districts***

There are a couple of proposals about what redistricting might look like. The process would be similar to legislative and other redistricting, except that school districting is more complicated because of debt, asset allocation and demographic considerations.

- ***Advantages of Redistricting***
  - Redistricting to a much lower number makes sense in this day and age. Looking at the school district map, one is hard-pressed to understand some of the district configurations, their student populations or their tax bases — or lack thereof.
  - At some point, a school district can be too small to provide a well-rounded and full school experience to its students.
  - Right-sizing school districts will provide more resources for enhanced educational programming and/or relieve the taxpayers from funding redundant systems.
- ***Disadvantages of Redistricting***

- The process is expensive, time-consuming and politically difficult, though it might still be worth the effort.
- The literature does not support the notion that larger school districts will improve student outcomes or be less expensive.
- The costs of transportation and abandoned assets are two issues that would need consideration.
- Smaller communities may lose their representation as they are absorbed into larger districts. While the property owners in the smaller communities will still have to retire any outstanding debt, the voters of the larger district could refuse to approve necessary bonds to accommodate the needs of the smaller communities. Conversely, the larger district would absorb the assessed valuation of the smaller districts and might approve bond issues without the support of the smaller communities.

### **Redistricting Options:**

- **Make school districts co-extensive with county boundaries, making 33 school districts.**
  - *Advantages*
    - This idea is relatively simple in that it reduces the number of districts by using known boundaries, which probably means much less in study costs. There will be some displacement for school districts that now cross county boundaries, but most changes will come from combining districts within counties.
  - *Disadvantages*
    - This proposal does not take into account where student populations live and the distribution of tax bases throughout the state. Also, it may cost some districts more to deliver programming, particularly in large counties with sparse student populations. Some students may end up living closer to another district; some of that disadvantage could be overcome by encouraging inter-district transfers, which might raise taxation issues, or through annexation as provided for in Section 22-4-17 NMSA 1978.
- **Redistrict based on student location and tax base.** This proposal assumes that current boundaries are not efficient because there are too many districts with too few students and the boundaries, decided in the late 1950s and early 1960s, are not efficiently drawn for the state as it is now in the twenty-first century and does not take into account how local tax bases have shifted.
  - *Advantages*
    - The entire system will be looked at demographically and lines drawn to account for population densities and shifts. The study should determine

boundaries based on both student location and optimum size for realizing economies of scale.

- ▶ Districts might be more compact, although that does not necessarily mean smaller.

- ***Disadvantages***

- ▶ The study will cost more, likely much more, because there are more options regarding boundary lines to research. The study may take longer than redistricting based on county lines, but that is difficult to gauge.

- **Force District Consolidations.** Force small school districts to consolidate by (1) increasing the minimum size of schools and adding a minimum school district size in the law; or (2) reducing the small district size adjustment in the funding formula (item #3 in the task force's handouts at the last meeting). As noted in item #3, the small district size adjustment factor was about \$17.3 million in FY 2010.

- **Strongly Encourage District Consolidation.** Consider removing statutory barriers to consolidation, such as required court orders on involuntary consolidation; however, statutory changes should continue to ensure that the rights of the majority and minority of voters are protected.

***Option 2 — Encourage or Require Administrative Consolidation***

There may be several ways to accomplish this. One way is to encourage or require that certain administrative functions of small districts, such as accounting, purchasing and the "paperwork" functions of personnel and other administrative offices, be performed by larger districts.

- ***Advantages***

- ▶ Combining redundant positions in several districts should improve efficiency and save money — or at least redirect money to instructional needs.

- ***Disadvantages***

- ▶ In many small districts, administrators currently double- and triple-up as superintendent and various other positions. If positions were transferred to another district, some level of on-site administration would still be required.

***Option 3 — Beef Up Regional Education Cooperatives' (REC) Ability to Provide Administrative Services***

The law currently states that RECs provide: (1) education-related services to members of the cooperative; (2) technical assistance and staff development opportunities to members of the cooperative; (3) cooperative purchasing capabilities and fiscal management opportunities to

members of the cooperative; and (4) such additional services to members of the cooperative as may be determined by the regional education coordinating council.

- *Advantages*

- ▶ The ability to consolidate at least some administrative functions, namely purchasing and fiscal management, already exists.

- ▶ The system **can** be made to work as intended when RECs were created in statute. RECs, which are, essentially, instrumentalities of school districts, had the legislature declare them to be state agencies. As state agencies, the governor should have more control over directing them to provide the services necessary to improve school district administration in small districts.

- ▶ The legislature does not have to bear the brunt of a politically impossible task.

- *Disadvantages*

- ▶ The legislature may have to provide much more funding for the administrative "infrastructure" in the RECs.

**2010SY 40D Enrollment by District**  
 Schools chartered by the NM Public Education  
 Commission ("state chartered schools") are listed  
 separately. Other charter schools are included in the  
 district totals.

# of Students	40D
001: ALBUQUERQUE	94,486
002: RESERVE	169
003: QUEMADO	177
004: ROSWELL	9,780
005: HAGERMAN	427
006: DEXTER	1,043
007: LAKE ARTHUR	139
008: CIMARRON	478
009: RATON	1,282
010: SPRINGER	208
011: MAXWELL	86
012: CLOVIS	8,354
013: TEXICO	546
014: MELROSE	208
015: GRADY	112
016: FT SUMNER	306
017: LAS CRUCES	24,105
018: HATCH	1,367
019: GADSDEN	13,859
020: CARLSBAD	5,837
021: LOVING	599
022: ARTESIA	3,539
023: SILVER CITY	3,134
024: COBRE CONS.	1,297
025: SANTA ROSA	623
026: VAUGHN	103
027: ROY	51
028: MOSQUERO	43
029: LORDSBURG	600
030: ANIMAS	234
031: LOVINGTON	3,036
032: EUNICE	582
033: HOBBS	8,047
034: JAL	394
035: TATUM	307
036: RUIDOSO	2,237
037: CARRIZOZO	175
038: CORONA	83
039: HONDO	169
040: CAPITAN	508
041: LOS ALAMOS	3,362
042: DEMING	5,306
043: GALLUP	11,776
044: MORA	497
045: WAGON MOUND	71
046: ALAMOGORDO	6,124
047: TULAROSA	946
048: CLOUDCROFT	436

049: TUCUMCARI	1,044
050: HOUSE	79
051: LOGAN	217
052: SAN JON	147
053: CHAMA	400
054: DULCE	676
055: ESPANOLA	4,384
056: JEMEZ MOUNTAIN	323
057: PORTALES	2,821
058: ELIDA	124
059: FLOYD	235
060: DORA	231
061: BERNALILLO	3,118
062: CUBA	672
063: JEMEZ VALLEY	492
064: AZTEC	3,362
065: FARMINGTON	10,323
066: BLOOMFIELD	3,101
067: CENTRAL CONS.	6,236
068: WEST LAS VEGAS	1,734
069: LAS VEGAS CITY	1,928
070: PECOS	667
071: SANTA FE	13,684
072: POJOAQUE	1,964
073: TRUTH OR CONS.	1,366
074: SOCORRO	1,884
075: MAGDALENA	444
076: TAOS	3,030
077: PENASCO	501
078: MESA VISTA	384
079: QUESTA	513
080: ESTANCIA	853
081: MORIARTY	3,366
082: MOUNTAINAIR	316
083: RIO RANCHO	16,320
084: CLAYTON	574
085: DES MOINES	97
086: LOS LUNAS	3,467
087: BELEN	4,659
088: GRANTS	3,518
089: ZUNI	1,406
501: MEDIA ARTS CHART	152
502: COTTONWOOD CLASS	247
503: HORIZON ACADEMY	451
504: NORTH VALLEY CHA	435
505: SCHOOL OF DREAMS	115
506: NEW AMERICA SCHO	228
507: CIEN AGUAS INTER	106
508: INTERNATIONAL SC	67
510: TAOS ACADEMY	90
511: ALMA D'ARTE CHAR	165
512: CESAR CHAVEZ COM	51
513: CREATIVE ED PREP	176
514: GILBERT L SENA C	173
District/Location	325,542

New Mexico Public Education Department  
 School Budget and Finance Analysis Bureau  
 PRELIMINARY 2010-2011

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2010-2011 Appropriation:	
Out of State Tuition	\$333,106.00
Categorical Public School Support	\$1,925,468.16
Small Rural Districts (less than 600 Mem)	\$4,000,000.00
Districts Experiencing Budget Shortfalls	\$6,000,000.00
<b>Total Appropriation:</b>	<b>\$12,258,574.16</b>

(\$346,000 Less .544% Per HB-2 Sanding=\$344,117.76) (\$344,117.76 Less  
 (\$2,000,000 Less .544% Per HB-2 Sanding=\$1,989,120) (\$1,989,120 Less

Supplemental Emergency	Amount Requested	Amount Budgeted	Amount Approved	Amount Distributed
<b>DISTRICTS</b>				
CHAMA	695,000.00	695,000.00		
CIMARRON	120,000.00	120,000.00		
CORONA	650,000.00	650,000.00		
DES MOINES	450,000.00	450,000.00		
ELIDA	235,000.00	235,000.00		
FT. SUMNER	250,000.00	250,000.00		
GADSDEN	1,500,000.00	1,500,000.00		
GALLUP	800,000.00	800,000.00		
GRADY	415,000.00	415,000.00		
HATCH	250,000.00	250,000.00		
HONDO	155,000.00	155,000.00		
HOUSE	500,000.00	500,000.00		
LAKE ARTHUR	860,000.00	860,000.00		
LOGAN	150,000.00	150,000.00		
MAXWELL	460,000.00	460,000.00		
MESA VISTA	210,000.00	210,000.00		
MOSQUERO	550,000.00	550,000.00		
MOUNTAINAIR	200,000.00	200,000.00		
PENASCO	150,000.00	150,000.00		
QUEMADO	150,000.00	150,000.00		
QUESTA	130,000.00	130,000.00		
RESERVE	235,000.00	235,000.00		
ROY	700,000.00	700,000.00		
SILVER CITY	110,000.00	110,000.00		
SPRINGER	275,000.00	275,000.00		
TAOS	350,000.00	350,000.00		
VAUGHN	430,000.00	430,000.00		
WAGON MOUND	680,000.00	680,000.00		
<b>Sub Total</b>	<b>11,660,000.00</b>	<b>11,660,000.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Supplemental Emergency</b>				
<b>CHARTER SCHOOLS</b>				
		0.00		
<b>Sub Total</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Out of State Tuition</b>				
ALAMOGORDO	\$15,000.00	14,523.43		
LORDSBURG	\$331,000.00	318,582.57		
<b>Sub-Total</b>	<b>\$346,000.00</b>	<b>\$333,106.00</b>		
<b>TOTAL</b>	<b>12,006,000.00</b>	<b>11,993,106.00</b>	<b>0.00</b>	<b>0.00</b>
Total Appropriation:	12,258,574.16		Total Appropriation:	12,258,574.16
Total Amount BUDGETED:	11,993,106.00		Total Amount REQUESTED:	12,006,000.00
Balance:	265,468.16		Balance:	252,574.16
Total Appropriation:	12,258,574.16			
Total Amount Distributed:	0.00			
Balance:	12,258,574.16			

**ARTICLE 4**  
**Creation, Consolidation and Annexation**  
**of School Districts**

Section

22-4-1	School districts.
22-4-2	New school districts; creation.
22-4-3	Consolidation; request; districts without junior or senior high schools; standards.
22-4-4	Consolidation of district without junior or senior high schools; governing board.
22-4-5	Alternate method of consolidation.
22-4-6	Alternate method; survey; report; submission to the state board [department].
22-4-7	Alternate method; survey committee.
22-4-8	Alternate method; survey committee; compensation.
22-4-9	Alternate method; standards for consolidation.
22-4-10	Order of state board [department].
22-4-11	Publication of order; actions attacking order.
22-4-12	Interim local school board; special election.
22-4-13	Special school district election; term of office.
22-4-14	Regular school district election; term of office.
22-4-15	Consolidated school districts; outstanding contracts; indebtedness.
22-4-16	Existing school districts validated.
22-4-17	Annexation of area for school district purposes; resolutions; approval; filing.
22-4-18	Validation of previous annexation.

**22-4-1. School districts.**

A. Every public school in the state shall be located within the geographical boundaries of a school district.

B. A school district shall be created, exist or be consolidated only pursuant to the provisions of law.

C. The geographical boundaries of a school district shall not coincide or overlap the geographical boundaries of another school district except as may be provided by law.

**History:** 1953 Comp., § 77-3-1, enacted by Laws 1967, ch. 16, § 14.

**22-4-2. New school districts; creation.**

A. The state board [department] may order the creation of a new school district:

(1) upon receipt of and according to a resolution requesting the creation of the new school district by the local school board of the existing school district;

(2) after review by the local school board and upon receipt of a petition bearing signatures verified by the county clerk of the affected area of sixty percent of the registered voters residing within the geographic area desiring creation of a new school district; or

(3) upon recommendation of the state superintendent [secretary] and upon a determination by the state board [department] that creation of a new district would meet the standards set forth in Subsection B of this section.

B. Within ninety days of receipt of the local school board resolution, receipt of the voters' petition or receipt of a recommendation by the state superintendent, the state board [department] shall conduct a public hearing to determine whether:

(1) the existing school district and the new school district to be created will each have a minimum membership of five hundred;

(2) a high school program is to be taught in the existing school district and in the new school district to be created unless an exception is granted to this requirement by the state board [department]; and

(3) creating the new school district is in the best interest of public education in the existing school district and in the new school district to be created and in the best interest of public education in the state.

**History:** 1953 Comp., § 77-3-2, enacted by Laws 1967, ch. 16, § 15; 1981, ch. 26, § 1; 1993, ch. 235, § 1.

**Cross references.** — For current powers and duties of the former state board of education, see 9-24-9 NMSA 1978.

For references to the former state board, see 9-24-15 NMSA 1978.

For contents and publication of order creating new school district, see 22-4-10 and 22-4-11 NMSA 1978.

For interim school board of newly created district, see 22-4-12 NMSA 1978.

For election of local school board for newly created district, see 22-4-13 and 22-4-14 NMSA 1978.

**The 1993 amendment**, effective June 18, 1993, added the subsection designation "A" at the beginning of the section; deleted "within an existing school district" at the end of the introductory paragraph of Subsection A; inserted the paragraph designations (1) and (2) and added Paragraph (3) in Subsection A; deleted "after a hearing to be held within ninety (90) days after filing of petition by the state board to determine that" at the end of Paragraph (2) of Subsection A; added the introductory paragraph of current Subsection B; redesignated former Subsections A to C as Paragraphs (1) to (3) of Subsection B; and made minor stylistic changes in Subsection A.

## ANNOTATIONS

**Secretary of education may create a new school district.** — Under Article XII, Section 6 of the New Mexico Constitution, as amended in 2003, the secretary of education has legal authority to order the creation of a new school district and to order a school district to convey by deed all right, title and interest in school-owned realty located in the proposed boundary of the new school district to the new school district. If the transferred property is encumbered, the school district that incurred the indebtedness

remains liable on the debt. 2010 Op. Att'y Gen. No. 10-01.

### **22-4-3. Consolidation; request; districts without junior or senior high schools; standards.**

A. The state board [department] may order consolidation of school districts upon receipt of and according to identical resolutions requesting consolidation from each local school board of each school district affected by the consolidation only if it determines that such consolidation:

- (1) will help to equalize the educational opportunities for public school students in each school district affected by the consolidation;
- (2) will make the most advantageous and economical use of public school facilities;
- (3) takes into consideration the convenience and welfare of the public school students in each school district affected by the consolidation; and
- (4) is in the best interest of public education in each school district affected by the consolidation and in the best interest of the public education in the state.

B. The state board [department] may also order consolidation of a school district which has not maintained either a junior or senior high school program for two consecutive years prior to consolidation with an adjacent district which has maintained such programs for the students of both districts upon receipt of and according to identical resolutions requesting consolidation from each local school board of each school district affected by the consolidation.

C. The state board [department] may bring an action in the district court for an order of consolidation of two or more school districts when:

- (1) all attempts to obtain an agreement between the local school boards to consolidate such school districts under Subsection A of this section have failed;
- (2) one or more schools within the school districts proposed to be consolidated have received a disapproval accreditation status from the state department of education [public education department]; and
- (3) after public hearing on such proposed consolidation, the state board makes findings of fact:
  - (a) that such consolidation will meet the criteria specified in Paragraphs (1) through (4) of Subsection A of this section; and
  - (b) that one or more schools within a school district proposed to be consolidated are deficient in their ability to provide the necessary educational opportunities for public school students in that district.

D. Notice of public hearing shall be given by the state board [department] at least thirty days prior to the hearing date by two consecutive publications one week apart in a newspaper of general circulation in the deficient school district proposed to be consolidated. The notice shall state:

- (1) the subject of the hearing;

- (2) the time and place of the hearing; and
- (3) the manner in which interested persons may present their views.

E. The public hearing shall be held in a suitable and convenient location within the deficient school district proposed to be consolidated. At the hearing, the state board [department] shall allow all interested persons a reasonable opportunity to submit data, views or arguments, orally or in writing, and to examine witnesses testifying at the hearing.

F. Within ten days from the date the hearing is concluded the state board [department] shall make its determination in writing and if such determination includes an intention to bring an action for consolidation in the district court, such intention shall be included in the written determination. A copy of the written determination of the state board shall be sent to each of the school boards concerned.

G. Within sixty days from the date of the issuance of its written determination, the state board [department] may bring an action for a court order of consolidation in the district court of any judicial district in which the deficient school district is located. A copy of the petition for such action shall be served upon each of the local school boards affected by the consolidation. Such local school boards shall be parties to the action. The director shall authorize the necessary transfers and expenditures in the budgets of the concerned school districts to cover all necessary costs incurred by them in such action. Upon request of any of the parties to the action, a jury trial shall be allowed. The state board shall have the burden of establishing the existence of conditions required under Subsection C of this section and of proving that such consolidation will meet the criteria specified in Paragraphs (1) through (4) of Subsection A of this section. The court may deny the order for consolidation if it is found that:

- (1) the conditions prescribed in Paragraphs (1) and (2) of Subsection C of this section do not exist;
- (2) such proposed consolidation will not meet the criteria specified in Paragraphs (1) through (4) of Subsection A of this section; or
- (3) that the alleged deficiency in the school district's ability to provide the necessary educational opportunities for public school students in such district does not exist.

H. In the event the court denies the order for consolidation, the state board [department] shall not again initiate such action for consolidation affecting the same or substantially the same school districts for one year after the date of the denial of such order.

I. In the event the court orders the consolidation, such consolidation shall not become effective until the end of the current school term.

J. Any final order of the district court is reviewable by the court of appeals in the same manner as provided under the rules of civil procedure.

**History:** 1953 Comp., § 77-3-3, enacted by Laws 1967, ch. 16, § 16; 1970, ch. 4, § 1; 1973, ch. 106, § 1; 1977, ch. 246, § 61.

**Cross references.** — For references to the state board and state department, see 9-24-15 NMSA 1978.

For alternate method of consolidation, see 22-4-5 to 22-4-9 NMSA 1978.

For contents and publication of order consolidating school districts, see 22-4-10 and 22-4-11 NMSA 1978.

For interim school board of newly consolidated district, see 22-4-12 NMSA 1978.

For election of local school board for newly created district, see 22-4-13 and 22-4-14 NMSA 1978.

## ANNOTATIONS

**Constitutionality of Subsection B.** — See State ex rel. Apodaca v. New Mexico State Bd. of Educ., 82 N.M. 558, 484 P.2d 1268 (1971).

**Where school consolidation was ordered pursuant to Subsection B, the provisions of 22-4-4 NMSA 1978 were controlling** as to the board which should govern the consolidated district, and the provisions of 22-4-10 to 22-4-14 NMSA 1978 were inapplicable. State ex rel. Apodaca v. New Mexico State Bd. of Educ., 82 N.M. 558, 484 P.2d 1268 (1971).

### **22-4-4. [Consolidation of district without junior or senior high schools; governing board.]**

Where consolidation is ordered under Subsection B hereof [22-4-3B NMSA 1978], the governing board of the district maintaining the junior and senior high school programs shall become the governing board of the consolidated district, the board of the district consolidated shall be dissolved, and the provisions of Sections 22-4-10 through 22-4-14 NMSA 1978 relating to appointment of an interim board and the holding of special elections shall not be applicable.

**History:** 1953 Comp., § 77-3-3.1, enacted by Laws 1970, ch. 4, § 2.

## ANNOTATIONS

**Where school consolidation was ordered pursuant to Subsection B of 22-4-3 NMSA 1978, the provisions of this section were controlling** as to the board which should govern the consolidated district, and the provisions of 22-4-10 to 22-4-14 NMSA 1978 were inapplicable. State ex rel. Apodaca v. New Mexico State Bd. of Educ., 82 N.M. 558, 484 P.2d 1268 (1971).

### **22-4-5. Alternate method of consolidation.**

Sections 22-4-6 through 22-4-9 NMSA 1978 shall be an alternative method of consolidation to that provided in Section 22-4-3 NMSA 1978.

**History:** 1953 Comp., § 77-3-4, enacted by Laws 1967, ch. 16, § 17.

**22-4-6. Alternate method; survey; report; submission to the state board [department].**

A. Upon receipt of a request from a local school board, the state board [department] shall cause a school district survey to be made to study the feasibility of a consolidation.

B. A school district survey shall be made by a school district survey committee. The school district survey committee shall submit a written report on a school district survey, along with any recommendations made by the committee, to each local school board of each school district affected by the survey. The report shall be accompanied by all maps, records and material supporting the recommendations.

C. Any local school board of a school district affected by the survey may suggest alterations to the report and the recommendations. If these alterations are approved by each local school board of each school district affected by the survey and the school district survey committee, the alterations shall become part of the final report and recommendations of the school district survey committee. If local school boards of all school districts affected by the survey approve the final report and recommendations of the school district survey committee, the final report and recommendations shall be submitted to the state board [department].

**History:** 1953 Comp., § 77-3-5, enacted by Laws 1967, ch. 16, § 18.

**Cross references.** — For references to the former state board, see 9-24-15 NMSA 1978.

**22-4-7. Alternate method; survey committee.**

To make a school district survey to determine the feasibility of a consolidation, the school district survey committee shall consist of the following members:

A. one person designated by the state transportation director from the state transportation division;

B. one person appointed by the state board [department] for each school district affected by the survey. Each person appointed by the state board shall reside outside of every school district affected by the school district survey; and

C. one person appointed by each local school board of a school district affected by the school district survey.

**History:** 1953 Comp., § 77-3-6, enacted by Laws 1967, ch. 16, § 19.

**Cross references.** — For references to the former state board, see 9-24-15 NMSA 1978.

**22-4-8. Alternate method; survey committee; compensation.**

Members of a school district survey committee shall serve without compensation but shall be entitled to reimbursement of expenses incurred in the performance of committee duties out of

funds of the department of education.

**History:** 1953 Comp., § 77-3-7, enacted by Laws 1967, ch. 16, § 20.

#### **22-4-9. Alternate method; standards for consolidation.**

The state board [department] may order consolidation according to the recommendations contained in a final report and recommendations of the school district survey committee approved by each local school board of each school district affected by the survey only if it determines that such consolidation:

- A. will help to equalize the educational opportunities for public school students in each school district affected by the consolidation;
- B. will make the most advantageous and economical use of public school facilities;
- C. takes into consideration the convenience and welfare of the public school students in each school district affected by the survey; and
- D. is in the best interest of public education in each school district affected by the consolidation and in the best interest of public education in the state.

**History:** 1953 Comp., § 77-3-8, enacted by Laws 1967, ch. 16, § 21.

**Cross references.** — For standards for consolidation generally, see 22-4-3 NMSA 1978.

For contents and publication of order consolidating school districts, see 22-4-10 and 22-4-11 NMSA 1978.

### **ANNOTATIONS**

**Applicability of section to consolidation under Subsection B of 22-4-3 NMSA 1978.** — Where school consolidation was ordered pursuant to Subsection B of 22-4-3 NMSA 1978, the provisions of 22-4-4 NMSA 1978 were controlling as to the board which should govern the consolidated district, and the provisions of this section and 22-4-10 to 22-4-14 NMSA 1978 were inapplicable. *State ex rel. Apodaca v. New Mexico State Bd. of Educ.*, 82 N.M. 558, 484 P.2d 1268 (1971).

#### **22-4-10. Order of state board [department].**

A. Any order of the state board [department] for creation of a new school district or for consolidation shall contain the following:

- (1) an accurate description of the geographical boundaries of all school districts affected by the order;
- (2) the disposition of all property affected by the order;
- (3) the dissolution of the elected local school board of each school district affected by the order of consolidation; and

(4) the appointment of three qualified electors of the state who are residents of the new school district created by the order or the consolidated school district to be members of an interim local school board to govern the new or consolidated school district.

B. A certified copy of the order of the state board [department] shall be kept on permanent file with the department of education.

C. One certified copy of the order of the state board [department] shall be furnished to each local school board affected by the order, to each county assessor of a county having a school district within it affected by the order, to the chief [secretary of public education], to the state tax commission [property tax division of the taxation and revenue department], to the oil and gas accounting commission [audit and compliance division of the taxation and revenue department] and to each member appointed to the interim local school board.

D. Any creation of a new school district or consolidation ordered by the state board [department] shall take effect upon the issuance of the order. However, for taxation purposes, creation of a new school district or consolidation shall be effective on January 1 following the date of the issuance of the order by the state board [department].

**History:** 1953 Comp., § 77-3-9, enacted by Laws 1967, ch. 16, § 22.

**Cross references.** — For references to the former state board, see 9-24-15 NMSA 1978.

The public school finance division of the department of finance and administration was abolished by Laws 1977, ch. 246, § 69. Laws 1977, ch. 246, § 3, established the public school finance division of the educational finance and cultural affairs department. Laws 1977, ch. 246, § 63, compiled as 22-8-3 NMSA 1978, designated the administrative and executive head of the public school finance division of the educational finance and cultural affairs department as the director of public school finance.

See the Public Education Department Act, 9-24-1 NMSA 1978 and N.M. Const. art. XII, § 6 for current law governing the former powers of the chief of the public school finance division.

**Bracketed material.** — The bracketed material was inserted by the compiler. The provisions relating to the state tax commission, referred to in this section, were repealed by Laws 1970, ch. 31, § 22. Laws 1970, ch. 31, created the property appraisal department. The provisions of Laws 1970, ch. 31, relating to the property appraisal department, were repealed by Laws 1973, ch. 258, § 156. Laws 1973, ch. 258, created the property tax department. The property tax department and the oil and gas accounting commission were abolished by Laws 1977, ch. 249, § 5. Laws 1977, ch. 249, § 4, established the taxation and revenue department, which now consists of, inter alia, the revenue division, the property tax division and the audit and compliance division.

#### **22-4-11. [Publication of order; actions attacking order.]**

After adoption of an order of the state board [department] for creation of a new school district or for consolidation of school districts, the state superintendent [secretary] of public instruction shall forthwith cause a copy of such order to be published in a newspaper of general circulation in each county within which any part of the new or consolidated school district may be located.

Actions to attack the validity of any such order shall be filed within thirty days from the date of such publication, but not afterwards. Such actions shall be filed in Santa Fe county district court and the state board of education [department] shall be an indispensable party thereto.

**History:** 1953 Comp., § 77-3-9.1, enacted by Laws 1970, ch. 4, § 3.

**Cross references.** — For references to the former state board, see 9-24-15 NMSA 1978.

#### **22-4-12. Interim local school board; special election.**

A. The interim local school board of a newly created or consolidated school district has all the powers and duties of a local school board. The interim local school board shall hold office only until the local school board is elected and qualified.

B. For the purpose of electing five members to the local school board of a newly created or consolidated school district, the interim local school board shall call a special school district election to be held not less than forty-five days nor more than ninety days from the date of the issuance of the order of the state board [department] appointing members to the interim local school board. If the date for a regular school district election occurs during this period, the interim local school board shall give notice of the regular school district election for the purpose of electing five members to the local school board of the newly created or consolidated school district instead of calling a special school district election.

C. The interim local school board shall appoint a superintendent of schools to perform the administrative and supervisory functions of the interim local school board and to also conduct the school district election. The term of office of the superintendent of schools appointed by the interim local school board shall coincide with the term of office of the interim local school board.

**History:** 1953 Comp., § 77-3-10, enacted by Laws 1967, ch. 16, § 23.

#### **22-4-13. Special school district election; term of office.**

The term of office of members of a local school board elected at a special school district election for a newly created or consolidated school district shall be as follows:

A. three members shall be elected for terms expiring at the next regular school district election; and

B. two members shall be elected for terms expiring two years after the next regular school district election.

**History:** 1953 Comp., § 77-3-11, enacted by Laws 1967, ch. 16, § 24; 1985, ch. 142, § 1.

### **ANNOTATIONS**

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Applicability and application of § 2 of Voting Rights Act of 1965 (42 USCS § 1973) to members of school board, 105 A.L.R. Fed. 254.

#### **22-4-14. Regular school district election; term of office.**

If the interim local school board calls for the election of members to the local school board of a newly created or consolidated school district at a regular school district election, the terms of office of the members elected shall be as follows:

- A. three members shall be elected for terms of two years; and
- B. two members shall be elected for terms of four years.

**History:** 1953 Comp., § 77-3-12, enacted by Laws 1967, ch. 16, § 25; 1985, ch. 142, § 2.

#### **22-4-15. Consolidated school districts; outstanding contracts; indebtedness.**

A. All contracts entered into by a local school board of a school district prior to consolidation shall be honored by the consolidated school district. The acquiring of tenure rights and tenure rights that have been obtained shall not be affected by consolidation.

B. Any outstanding school district bonds or other indebtedness of a school district shall not be affected by consolidation. Whenever a school district included within a consolidation has outstanding school district bonds or certificates of indebtedness, the school district shall retain its identity for the purpose of paying any debt service until the bonds or certificates are paid in full. No school district included within a consolidation shall become responsible for the debt service of any other school district included within the consolidation.

**History:** 1953 Comp., § 77-3-13, enacted by Laws 1967, ch. 16, § 26.

#### **22-4-16. [Existing school districts validated.]**

That the organization, existence or consolidation of all school districts heretofore ordered by the state board [department] of education of the state of New Mexico are hereby validated and their existence as ordered by the state board of education is hereby validated and confirmed, provided that the passage of this act [22-4-16 NMSA 1978] shall not affect any consolidations upon which an action is pending contesting such consolidation at the time this act becomes effective.

**History:** 1953 Comp., § 73-15-9, enacted by Laws 1955, ch. 76, § 1.

#### **22-4-17. Annexation of area for school district purposes; resolutions; approval; filing.**

A. Whenever it becomes economically feasible for students residing in one school district to attend school in another school district, whether or not that school district is within the same

county as the school district of residence, the local school boards of the school districts may provide for annexation of the appropriate area by resolution of each of the local school boards concerned. The resolutions shall be submitted to the state board [department] of education for its approval.

B. Prior to adopting such resolution, the local school board proposing to annex the area within another school district shall furnish an accurate legal description of the area to be annexed and the net taxable value of the property within the area to the chief, public school finance division [secretary of public education]. The chief [secretary] shall furnish to each local school board concerned a statement of the financial implication of the annexation.

C. After resolutions are adopted by each of the local school boards concerned and approved by the state board [department] of education, copies of the resolutions shall be filed with:

- (1) the county commission of the county where the principal office of each local school board is located and the county commissions of those other counties in which area is affected;
- (2) the county assessor of the county where the principal office of each local school board is located and the county assessors of those other counties in which area is affected;
- (3) state board of education; and
- (4) department of finance and administration.

**History:** 1953 Comp., § 77-3-2.1, enacted by Laws 1977, ch. 213, § 1.

**Cross references.** — For references to the former state board, see 9-24-15 NMSA 1978.

The public school finance division of the department of finance and administration was abolished by Laws 1977, ch. 246, § 69. Laws 1977, ch. 246, § 3, established the public school finance division of the educational finance and cultural affairs department. Laws 1977, ch. 246, § 63, compiled as 22-8-3 NMSA 1978, designated the administrative and executive head of the public school finance division of the educational finance and cultural affairs department as the director of public school finance.

See the Public Education Department Act, 9-24-1 NMSA 1978 and N.M. Const. art. XII, § 6 for current law governing the former powers of the chief of the public school finance division.

### **22-4-18. Validation of previous annexation.**

Every member of a local school board of a local school district which has been a party to an annexation similar to that authorized in Section 1 [22-4-17 NMSA 1978] of this act but occurring prior to the effective date of this act is determined to have been a legally authorized governing authority and such annexation is validated as of the date of the resolution adopting such action.

**History:** 1953 Comp., § 77-3-2.2, enacted by Laws 1977, ch. 213, § 2.