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AN ACT

RELATING TO STATE AGENCIES; CREATING THE HIGHER EDUCATION DEPARTMENT AS A CABINET DEPARTMENT; CREATING A HIGHER EDUCATION ADVISORY BOARD; PROVIDING POWERS AND DUTIES; PROVIDING FOR THE TRANSFER OF APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES OF THE COMMISSION ON HIGHER EDUCATION TO THE HIGHER EDUCATION DEPARTMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Higher Education Department Act".

Section 2. PURPOSE.--The purpose of the Higher Education Department Act is to establish a single, unified department to administer laws and exercise functions formerly administered and exercised by the commission on higher education.

Section 3. DEFINITIONS.--As used in the Higher Education Department Act:

- A. "board" means the higher education advisory board;
- B. "department" means the higher education department; and
- C. "secretary" means the secretary of higher

1 education.

2 Section 4. DEPARTMENT CREATED.--The "higher education
3 department" is created in the executive branch. The
4 department is a cabinet department. The secretary shall
5 organize the department so that bureaus and divisions exist
6 to focus on the needs of and for the diverse categories of
7 post-secondary institutions, including two-year institutions,
8 four-year institutions, research institutions and
9 institutions with academic medical centers. The secretary
10 shall make recommendations to the second session of the
11 forty-seventh legislature on the statutory organization of
12 the department.

13 Section 5. SECRETARY--APPOINTMENT.--

14 A. The administrative head of the department is
15 the "secretary of higher education", who shall be appointed
16 by the governor with the consent of the senate and who shall
17 serve in the executive cabinet. The secretary shall possess
18 a terminal degree from a regionally accredited post-secondary
19 educational institution, a minimum of five years of senior
20 administrative experience, experience in higher education and
21 experience in the development of public policy at the state
22 or federal level.

23 B. An appointed secretary shall serve and have all
24 of the duties, responsibilities and authority of that office
25 during the period of time prior to final action by the senate

1 confirming or rejecting the secretary's appointment.

2 Section 6. DIVISION DIRECTORS.--The secretary shall
3 appoint directors of the divisions established within the
4 department. Division directors are exempt from the Personnel
5 Act.

6 Section 7. BUREAU CHIEFS.--The secretary may establish
7 within each division of the department such bureaus as the
8 secretary deems necessary to carry out the provisions of the
9 Higher Education Department Act. The secretary shall employ
10 a chief to be the administrative head of each bureau. The
11 chiefs and all subsidiary employees of the department shall
12 be covered by the Personnel Act.

13 Section 8. SECRETARY--DUTIES AND GENERAL POWERS.--

14 A. The secretary is responsible to the governor
15 for the operation of the department. It is the secretary's
16 duty to manage all operations of the department and to
17 administer and enforce the laws with which the secretary or
18 the department is charged.

19 B. To perform the duties of the secretary, the
20 secretary has every power expressly enumerated in the law,
21 whether granted to the secretary, the department or any
22 division of the department, except when any division is
23 explicitly exempted from the secretary's power by statute.
24 In accordance with these provisions, the secretary shall:

25 (1) except as otherwise provided in the

1 Higher Education Department Act or Chapter 21 NMSA 1978,
2 exercise general supervisory and appointing power over all
3 department employees, subject to applicable personnel laws
4 and rules;

5 (2) delegate power to subordinates as the
6 secretary deems necessary and appropriate, clearly
7 delineating such delegated power and the limitations to that
8 power;

9 (3) organize the department into
10 organizational units as necessary to enable it to function
11 most efficiently, subject to any provisions of law requiring
12 or establishing specific organizational units;

13 (4) within the limitations of available
14 appropriations and applicable laws, employ and fix the
15 compensation of those persons necessary to discharge the
16 duties of the secretary;

17 (5) take administrative action by issuing
18 orders and instructions, not inconsistent with law, to ensure
19 implementation of and compliance with the provisions of law
20 for which administration or execution the secretary is
21 responsible and to enforce those orders and instructions by
22 appropriate administrative action in the courts;

23 (6) conduct research and studies that will
24 improve the operation of the department and the provision of
25 services to the citizens of the state;

1 (7) provide courses of instruction and
2 practical training for employees of the department and other
3 persons involved in the administration of programs with the
4 objectives of improving the operations and efficiency of
5 administration;

6 (8) prepare an annual budget for the
7 department; and

8 (9) provide cooperation, at the request of
9 administratively attached agencies and adjunct agencies, in
10 order to:

11 (a) minimize or eliminate duplication
12 of services and jurisdictional conflicts;

13 (b) coordinate activities and resolve
14 problems of mutual concern; and

15 (c) resolve by agreement the manner and
16 extent to which the department shall provide budgeting,
17 record keeping and related clerical assistance to
18 administratively attached agencies.

19 C. The secretary may apply for and receive, with
20 the governor's approval, in the name of the department, any
21 public or private funds, including United States government
22 funds, available to the department to carry out its programs,
23 duties or services.

24 D. The secretary may make and adopt such
25 reasonable and procedural rules as may be necessary to carry

1 out the duties of the department and its divisions. No rule
2 promulgated by the director of any division in carrying out
3 the functions and duties of the division shall be effective
4 until approved by the secretary. Unless otherwise provided
5 by statute, no rule affecting any person or agency outside
6 the department shall be adopted, amended or repealed without
7 a public hearing on the proposed action before the secretary
8 or a hearing officer designated by the secretary. No rule
9 promulgated by the department shall infringe upon the
10 authority vested by Article 12 of the constitution of New
11 Mexico in the boards of regents of the educational
12 institutions specified in that article. The final public
13 hearing on adoption, amendment or repeal of a rule shall be
14 held in Santa Fe unless otherwise permitted by statute.
15 Notice of the subject matter of the rule, the action proposed
16 to be taken, the time and place of the hearing, the manner in
17 which interested persons may present their views and the
18 method by which copies of the proposed rule or proposed
19 amendment or repeal of an existing rule may be obtained shall
20 be published once at least thirty days prior to the hearing
21 date in a newspaper of general circulation and mailed at
22 least thirty days prior to the hearing date to all persons
23 who have made a written request for advance notice of
24 hearing. All rules shall be filed in accordance with the
25 State Rules Act.

1 Section 9. ADDITIONAL DUTIES.--Consistent with
2 constitutional provisions relating to the control and
3 management of the educational institutions enumerated in
4 Article 12, Section 11 of the constitution of New Mexico, the
5 department shall:

6 A. cooperate with colleges and universities to
7 create a statewide public agenda to meet higher education
8 needs and goals;

9 B. periodically study and report to the governor
10 and the legislative finance committee on enrollment capacity
11 needs over a ten-year period, based on state demographic
12 models, academic program demands, institutional competencies
13 and infrastructure, state workforce needs, economic
14 development goals and other factors; and

15 C. by November 1 of each year, present to the
16 legislature a comprehensive funding request and a legislative
17 priorities list for all higher education. The funding
18 request and priorities shall encompass the needs of all
19 public post-secondary educational institutions and programs.

20 Section 10. HIGHER EDUCATION ADVISORY BOARD--
21 MEMBERSHIP--TERMS--ADMINISTRATIVE ATTACHMENT.--

22 A. The "higher education advisory board" is
23 created to advise the department and the governor on policy
24 matters and perform other functions as provided by law. The
25 board is administratively attached to the department, with

1 administrative staff provided by the department.

2 B. The secretary shall appoint fourteen members
3 giving due regard to geographic representation, cultural
4 diversity and the composition of higher education
5 institutions in New Mexico. Four members shall represent the
6 four-year public post-secondary educational institutions, one
7 of whom shall represent the university of New Mexico, one of
8 whom shall represent New Mexico state university, one of whom
9 shall represent New Mexico institute of mining and technology
10 and one of whom shall represent either New Mexico highlands
11 university, eastern New Mexico university or western New
12 Mexico university; three members shall represent the two-year
13 public post-secondary educational institutions; one member
14 shall represent the accredited private post-secondary
15 educational institutions; one member shall represent
16 business; one member shall represent college and university
17 faculty; one member shall represent college and university
18 nonfaculty staff; one member shall be a college or university
19 student; one representative of the tribal colleges in New
20 Mexico; and one representative of the Indian nations, tribes
21 and pueblos in New Mexico. The members representing the
22 categories of post-secondary educational institutions shall
23 be the chief executive officers of the institutions of those
24 categories or the chief executive officers' designees. The
25 members representing faculty and nonfaculty staff and the

1 student member shall be the leaders of faculty, staff and
2 student organizations at their respective institutions.

3 C. Four members of the initial board, including
4 the student member, shall be appointed for two years, five
5 members shall be appointed for three years and five members
6 shall be appointed for four years; thereafter, the student
7 member shall serve a two-year term and the other members
8 shall serve four-year terms. Members are entitled to receive
9 per diem and mileage as provided in the Per Diem and Mileage
10 Act and shall receive no other perquisite, compensation or
11 allowance.

12 D. The board shall annually elect a chair, vice
13 chair and secretary from among its membership. A majority of
14 the members constitutes a quorum for the conduct of business.

15 E. The board shall meet at the call of the chair
16 at least quarterly. Meetings of the board shall be held in
17 Santa Fe and at other sites within the state at the direction
18 of the board.

19 Section 11. ORGANIZATIONAL UNITS OF THE DEPARTMENT--
20 POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--
21 Those organizational units of the department and the officers
22 of those units specified by law shall have all of the powers
23 and duties enumerated in the specific laws involved.
24 However, the carrying out of those powers and duties shall be
25 subject to the direction and supervision of the secretary,

1 who shall retain the final decision-making authority and
2 responsibility for the administration of any laws as provided
3 in Subsection B of Section 8 of the Higher Education
4 Department Act. The department shall have access to all
5 records, data and information of other state departments,
6 agencies and institutions, including its own organizational
7 units, not specifically held confidential by law; provided,
8 however, that when the department requires confidential
9 institutional data, including student records and other
10 information necessary to fulfill the functions of the
11 department, the secretary and the institution shall cooperate
12 to provide the department with information adequate to meet
13 its needs while meeting all legal requirements to ensure the
14 confidentiality of such information and records.

15 Section 12. COOPERATION WITH THE FEDERAL GOVERNMENT--
16 AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

17 A. The department is authorized to cooperate with
18 the federal government in the administration of higher
19 education programs in which financial or other participation
20 by the federal government is authorized or mandated under
21 state or federal laws, rules or orders. The secretary may
22 enter into agreements with agencies of the federal government
23 to implement higher education programs subject to
24 availability of appropriated state funds and any provisions
25 of state laws applicable to such agreements or participation

1 by the state.

2 B. The governor or the secretary may by
3 appropriate order designate the department or any
4 organizational unit of the department as the single state
5 agency for the administration of any higher education program
6 when that designation is a condition of federal financial or
7 other participation in the program under applicable federal
8 law, rule or order. Whether or not a federal condition
9 exists, the governor may designate the department or any
10 organizational unit of the department as the single state
11 agency for the administration of any federally funded higher
12 education program not targeted for specific post-secondary
13 educational institutions. No designation of a single state
14 agency under the authority granted in this section shall be
15 made in contravention of state law.

16 Section 13. ADVISORY COMMITTEES.--

17 A. In addition to the higher education advisory
18 board, the department may create other advisory committees.
19 "Advisory" means furnishing advice, gathering information,
20 making recommendations and performing such other activities
21 as may be instructed or delegated and as may be necessary to
22 fulfill advisory functions or to comply with federal or
23 private funding requirements and does not extend to
24 administering a program or function or setting policy unless
25 specified by law. Advisory committees shall be appointed in

1 accordance with the provisions of the Executive
2 Reorganization Act.

3 B. All members of advisory committees are entitled
4 to receive per diem and mileage as provided in the Per Diem
5 and Mileage Act and shall receive no other compensation,
6 perquisite or allowance.

7 Section 14. A new section of Chapter 21, Article 1 NMSA
8 1978 is enacted to read:

9 "EDUCATIONAL NEEDS AND GUIDELINES--ACCOUNTABILITY
10 REPORTS.--

11 A. The higher education department shall, through
12 consultation with all public post-secondary educational
13 institutions, develop and publish a statement of statewide
14 educational needs and guidelines to assist the institutions
15 in the development or modification of institutional strategic
16 plans. The department may conduct studies of statewide
17 educational needs and make recommendations to the governor,
18 the legislature and public post-secondary educational
19 institutions.

20 B. All public post-secondary educational
21 institutions, including off-campus instruction programs and
22 learning centers, shall:

23 (1) approve and submit accountability
24 reports prepared in accordance with the statewide public
25 agenda; and

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

3 Section 15. Section 21-1-26 NMSA 1978 (being Laws 1951,
4 Chapter 190, Section 1, as amended) is amended to read:

5 "21-1-26. HIGHER EDUCATION DEPARTMENT--GENERAL
6 POWERS.--

7 A. The higher education department shall be
8 concerned with the problems of finance of those educational
9 institutions designated in Article 12, Section 11 of the
10 constitution of New Mexico and other public post-secondary
11 educational institutions in the state. The department shall:

12 (1) be concerned with the adequate financing
13 of these institutions and with the equitable distribution of
14 available funds among them;

15 (2) receive, adjust and approve the budgets
16 submitted by these institutions prior to the submission of
17 these budgets to the state budget division of the department
18 of finance and administration;

19 (3) develop and maintain programs, on a
20 regular basis, for the orientation and in-service education
21 of members of the boards of regents of the various
22 educational institutions designated in Article 12, Section 11
23 of the constitution of New Mexico and the governing bodies of
24 other public post-secondary educational institutions in the
25 state;

1 (4) analyze the financial impact of each new
2 degree program of each public post-secondary educational
3 institution as part of the department's review of the
4 institution's operating budget; and

5 (5) exercise such other powers as may be
6 granted it by law.

7 B. Effective July 1, 2005, all new state-funded
8 baccalaureate, graduate and professional degree programs
9 shall be offered by public four-year educational institutions
10 and all new associate degree programs shall be offered by
11 public post-secondary educational institutions after a timely
12 and thorough consultation with and review by the department.

13 C. Notwithstanding any other provisions of law,
14 the higher education department may be designated by the
15 governor to administer funds furnished under acts of congress
16 for post-secondary educational institutions, except for funds
17 specifically appropriated or otherwise designated for those
18 educational institutions enumerated in Article 12, Section 11
19 of the constitution of New Mexico.

20 D. The higher education department is also charged
21 with oversight of all private post-secondary educational
22 institutions operating within the state."

23 Section 16. Section 21-1-26.1 NMSA 1978 (being Laws
24 1980, Chapter 145, Section 2) is amended to read:

25 "21-1-26.1. ADDITIONAL DUTIES.--In addition to the

1 duties imposed upon the higher education department by the
2 Post-Secondary Educational Planning Act, the department shall
3 perform the same planning and budgeting functions for the
4 university of New Mexico hospital as it performs for other
5 post-secondary educational institutions."

6 Section 17. Section 21-1-26.2 NMSA 1978 (being Laws
7 1981, Chapter 69, Section 1) is amended to read:

8 "21-1-26.2. POST-SECONDARY EDUCATION--ADULT
9 CORRECTIONAL FACILITIES.--Upon approval by the corrections
10 department in consultation with the higher education
11 department, state-supported post-secondary educational
12 institutions shall receive credit on a full-time equivalency
13 basis for students enrolled in their respective programs
14 within adult correctional facilities. Funding
15 recommendations to implement the provisions of this section
16 shall be developed by the higher education department or the
17 public education department as appropriate in the same manner
18 that funding recommendations for similar programs at other
19 institutions are calculated."

20 Section 18. Section 21-1-26.3 NMSA 1978 (being Laws
21 1986, Chapter 24, Section 3, as amended) is amended to read:

22 "21-1-26.3. VERIFICATION FUNCTION.--The higher
23 education department shall annually conduct special
24 verifications of the institutions of higher education. The
25 verifications shall include enrollments, fund balances,

1 compliance with legislation, comparison of expenditures to
2 budgets and other areas to be determined by the department.
3 Reports on the verifications shall be made annually to the
4 department of finance and administration and the legislative
5 finance committee. The department shall consider the
6 verification findings in making its annual recommendations to
7 the executive and legislature for higher education funding."

8 Section 19. Section 21-1-26.7 NMSA 1978 (being Laws
9 1990 (1st S.S.), Chapter 4, Section 2, as amended) is amended
10 to read:

11 "21-1-26.7. ANNUAL ACCOUNTABILITY REPORT.--

12 A. The higher education department shall submit an
13 annual accountability report to the governor and to the
14 legislature by December 31. Prior to publication, the
15 department shall distribute a draft of the accountability
16 report to all public post-secondary educational institutions
17 and shall allow comment upon the draft report.

18 B. The department in consultation with the public
19 post-secondary educational institution shall develop and
20 adopt the content and a format for the report, including the
21 following information:

- 22 (1) student progress and success;
23 (2) student access and diversity;
24 (3) affordability and cost of educational
25 services; and

1 (4) public and community service by the
2 institutions.

3 C. The department shall make no funding
4 recommendation, capital outlay recommendation, distribution
5 or certification on behalf of any public post-secondary
6 educational institution that has not submitted the
7 information required pursuant to this section."

8 Section 20. Section 21-1-26.9 NMSA 1978 (being Laws
9 1998, Chapter 61, Section 2) is amended to read:

10 "21-1-26.9. LIMITATION--HIGHER EDUCATION DEPARTMENT--
11 REVIEW OF PROPOSED CAMPUSES.--Effective January 1, 1998, no
12 new public post-secondary educational institution, branch
13 campus or off-campus instructional center shall be created
14 except as specifically created by the legislature. The
15 higher education department shall review any proposal for the
16 establishment of a new public post-secondary educational
17 institution or campus and submit its recommendations to the
18 legislature. In reviewing proposals, the department may
19 consider:

20 A. provisions for a local mill levy of at least
21 two mills;

22 B. population base to provide at least five
23 hundred full-time students;

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

- 1 D. governance structure;
- 2 E. means for acquisition of property, including
- 3 purchase, lease, donations or any other means;
- 4 F. eligibility and level of funding request of the
- 5 state; and
- 6 G. brokering of extended learning provisions."

7 Section 21. Section 21-1-26.10 NMSA 1978 (being Laws
8 1999 (1st S.S.), Chapter 6, Section 18) is amended to read:

9 "21-1-26.10. HIGHER EDUCATION DEPARTMENT--PLAN FOR
10 FUNDING SIGNIFICANT POST-SECONDARY EDUCATIONAL INFRASTRUCTURE
11 NEEDS.--The higher education department, in conjunction with
12 the governing bodies of the post-secondary educational
13 institutions and other state educational institutions
14 confirmed in Article 12, Section 11 of the constitution of
15 New Mexico, shall develop and approve a five-year plan for
16 funding the infrastructure renovation and expansion projects
17 designated by the department as the highest priority of
18 significant needs. The department shall determine the
19 projects and amounts to be funded, with a timetable for the
20 projects and amounts to be funded each year over the
21 five-year period, subject to review and comment by the
22 educational institutions and subject to appropriations."

23 Section 22. Section 21-1-26.11 NMSA 1978 (being Laws
24 2003, Chapter 394, Section 1) is amended to read:

25 "21-1-26.11. HIGHER EDUCATION DEPARTMENT--ADDITIONAL

1 DUTIES.--In addition to the duties imposed upon the higher
2 education department by the Post-Secondary Educational
3 Planning Act, the department shall plan and budget for the
4 statewide adult basic education program and shall adopt and
5 promulgate rules for all such adult educational programs.
6 The department shall establish a uniform protocol for
7 identifying, communicating with and providing direct and
8 equitable access to funding for eligible agencies, which
9 include:

- 10 A. local educational agencies;
- 11 B. community-based organizations;
- 12 C. volunteer literacy organizations;
- 13 D. post-secondary institutions;
- 14 E. public or private nonprofit agencies;
- 15 F. public libraries;
- 16 G. public housing authorities; and
- 17 H. a consortium of agencies, organizations,
18 institutions, libraries or authorities as described in
19 Section 203 of Public Law 105."

20 Section 23. Section 21-1-27 NMSA 1978 (being Laws 1965,
21 Chapter 267, Section 1, as amended) is amended to read:

22 "21-1-27. HIGHER EDUCATION DEPARTMENT--DISTRIBUTION OF
23 AVAILABLE FUNDS.--In its distribution of available funds and
24 its adjustment and approval of budgets, the higher education
25 department shall not, in any event or in any manner,

1 substitute for public funds any gift, donation, private
2 endowment, patent income or other gratuity received or
3 enjoyed by an institution in determining the adequate
4 financing of an institution under its charge."

5 Section 24. Section 21-1-33 NMSA 1978 (being Laws 1974,
6 Chapter 30, Section 2, as amended) is amended to read:

7 "21-1-33. SYSTEM OF ACCOUNTING AND REPORTING--MANUAL.--

8 A. The higher education department, in
9 consultation with the state auditor, shall compile a manual
10 prescribing a uniform classification of accounts and a
11 uniform system for budgeting and reporting that includes the
12 reporting of all funds available. The manual shall apply to
13 all institutions enumerated in Article 12, Section 11 of the
14 constitution of New Mexico and all their branches, except the
15 New Mexico school for the blind and visually impaired and the
16 New Mexico school for the deaf. The manual shall also apply
17 to the two-year public post-secondary educational
18 institutions.

19 B. The uniform system for budgeting and reporting
20 shall require the submission of at least quarterly financial
21 reports.

22 C. Following review by the legislative finance
23 committee, the manual shall be reproduced by the department
24 and filed as required by the State Rules Act. Upon the
25 filing, the requirements set forth in the manual shall

1 constitute rules of the department and have the force of law.
2 The department shall review the manual annually. Sections of
3 the manual may be revised or amended from time to time by the
4 department, and revisions or amendments shall become
5 effective upon review by the legislative finance committee
6 and reproduction and filing as provided in this section.

7 D. All institutions to which this section and
8 Section 21-1-32 NMSA 1978 apply shall comply with all of the
9 requirements in the manual, submit reports to the department
10 as requested and furnish such additional information as the
11 department deems necessary."

12 Section 25. Section 21-1-34 NMSA 1978 (being Laws 1977,
13 Chapter 330, Section 1, as amended) is amended to read:

14 "21-1-34. EDUCATIONAL TELEVISION EQUIPMENT REPLACEMENT
15 FUND--DISBURSEMENT.--The "educational television equipment
16 replacement fund" is created. The higher education
17 department shall develop criteria and promulgate rules for
18 the disbursement of money in this fund for the replacement of
19 equipment at educational television stations operated by
20 institutions of higher education. Disbursement shall be made
21 to the institutions by warrant of the department of finance
22 and administration upon vouchers signed by the secretary of
23 higher education. It is the intent of the legislature that
24 in subsequent years a specific line item for educational
25 television replacement shall be included in the

1 appropriations recommended for educational television by the
2 department. The appropriation to the fund in the General
3 Appropriation Act of 1982 shall not revert to the general
4 fund at the end of any fiscal year, and no subsequent
5 appropriation to the fund shall revert unless it contains the
6 sentence "The appropriation to the educational television
7 equipment replacement fund shall revert."."

8 Section 26. Section 21-13-11 NMSA 1978 (being Laws
9 1963, Chapter 17, Section 10, as amended) is amended to read:

10 "21-13-11. STANDARDS AND ACCREDITING OF COMMUNITY
11 COLLEGES.--

12 A. The community college board shall prescribe the
13 course of study for the community college and shall define,
14 in conjunction with the higher education department, official
15 standards of excellence in all matters relating to the
16 administration, course of study and quality of instruction,
17 except that the prescribed standards may not be less in
18 quality or quantity than those prescribed for other state
19 institutions of higher learning by the regional accrediting
20 agency that accredits other colleges and universities of the
21 state.

22 B. The department shall annually inspect, or
23 investigate through the requirement of reports prescribed by
24 the department, each community college. The inspection or
25 investigation by report shall be conducted upon the

1 facilities and program of each community college to determine
2 the extent of compliance with the rules promulgated by the
3 department. A report of each inspection or final
4 investigation by report shall be made to the department.

5 C. In the event of any serious deviation from
6 established practices and procedures or any deficiencies that
7 impair the quality of the instructional program in any
8 community college, the department shall first call these to
9 the attention of the president of the community college and
10 the community college board.

11 D. In the case of repeated failure to meet the
12 standards provided for in Subsection A of this section, the
13 department may take action discontinuing the approval of any
14 community college so delinquent. Upon a showing that the
15 unsatisfactory conditions have been remedied, the department
16 may reinstate its approval of a disapproved community
17 college."

18 Section 27. Section 21-21B-1 NMSA 1978 (being Laws
19 1982, Chapter 88, Section 1) is amended to read:

20 "21-21B-1. SHORT TITLE.--Chapter 21, Article 21B NMSA
21 1978 may be cited as the "Work-Study Act"."

22 Section 28. Section 21-21B-2 NMSA 1978 (being Laws
23 1982, Chapter 88, Section 2) is amended to read:

24 "21-21B-2. DEFINITIONS.--As used in the Work-Study Act:

25 A. "board" or "commission" or "department" means

1 the higher education department; and

2 B. "institution" means any state post-secondary
3 educational institution and any private nonprofit
4 post-secondary educational institution within New Mexico."

5 Section 29. TEMPORARY PROVISION--TRANSFERS.--

6 A. On the effective date of this act, all
7 functions, appropriations, money, personnel, records, files,
8 furniture, equipment and other property of the commission on
9 higher education shall be transferred to the higher education
10 department.

11 B. On the effective date of this act, all
12 contractual obligations of the commission on higher education
13 shall be binding on the higher education department.

14 C. On the effective date of this act, all
15 references in law to the commission on higher education shall
16 be deemed to be references to the higher education department
17 and all references in law to the executive director of the
18 commission on higher education shall be deemed to be
19 references to the secretary of higher education.

20 Section 30. REPEAL.--Sections 21-1-28 through 21-1-31
21 NMSA 1978 (being Laws 1977, Chapter 246, Section 49, Laws
22 1971, Chapter 224, Section 1 and Laws 1951, Chapter 190,
23 Sections 3 and 4, as amended) are repealed. _____